THE INSIDE STORY:
AN ANALYSIS OF THE POLICIES AND LAWS GOVERNING THE DESIGNATION AND
PROTECTION OF HISTORIC INTERIORS

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Sameric Corporation of Chestnut Street, Inc. v. City of Philadelphia, 142 F.3d 582 (1993)


# ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>D.C. Act</td>
<td>District of Columbus Historic Landmark and Historic District Preservation Act</td>
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<td>FRITC</td>
<td>Federal Rehabilitation Investment Tax Credit</td>
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<td>HPC</td>
<td>Historic/Heritage Preservation Commission</td>
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<td>IHPC</td>
<td>Indianapolis Historic Preservation Commission</td>
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<tr>
<td>MERA</td>
<td>Minnesota Environmental Rights Act</td>
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<tr>
<td>MET</td>
<td>Metropolitan Museum of Art of New York City</td>
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<td>SHPO</td>
<td>State Historic Preservation Office</td>
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<td>SPNEA</td>
<td>Society for the Preservation of New England Antiquities</td>
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<td>TIAA</td>
<td>Teachers Insurance and Annuity Association of America</td>
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Chapter 1
Introduction

The practice of designating significant interiors as historic is not a new phenomenon in the historic preservation field. Some of the first interior designations in the nation occurred relatively simultaneously with the surge of preservation-minded activities following the passage of the National Preservation Act in 1966. Despite this, designating interiors never gained widespread support as interior designations raise contentious debates about private property rights, public accessibility, and publicly versus privately owned property. In recent years, however, the use of interior designations have seen something of a renaissance with cities nationwide recognizing the imperative role interior designations play in protecting the spectrum of interior spaces, ranging from the most opulent to the unpretentious vernacular, of their built heritage.

This thesis is written in response to a growing pressure on municipalities and local historic preservation commissions to take an active role in the protection of historic interior spaces. It is an attempt to demonstrate that the practice of interior designations is a valid option for preservation commissions, and that preservation policy at the national, state, and local governmental levels support such efforts. The critical need for a body of work that educates and fortifies a preservation commission's abilities to designate interiors came to the forefront in Minneapolis in 2009.
In the summer of 2009, in the midst of an economic downturn, an unfortunate situation unfolded in Minneapolis, Minnesota. Unable to keep up with their mortgage payments, the owners of the Samuel J. Hewson House faced foreclosure. The owners decided to hold an estate sale and auction off pieces of the interior to the highest bidder. Handcrafted stained glass windows, artistic fixtures, pulls, inlaid ornament, fireplaces, decorative wood wall panels, and doors were all for sale. When members of the Wittier Neighborhood Alliance, the local neighborhood group, became aware of the situation they called TCF Bank, the loan holder, who quickly came in and changed the locks on the property.1

The Hewson House is a 1905 mansion designed by prominent Minneapolis architects, Kees and Colburn, with T.P. Healy as the contractor. Renowned designer John S. Bradstreet, the preeminent local artisan and furniture designer of the Arts and Crafts period in Minneapolis, designed the home’s interior. At the time of the foreclosure the house was not locally designated by the Minneapolis Heritage Preservation Commission. Due to the foreclosure proceedings, the bank stepped in to prevent the owners from selling the interior and diminishing the value of the home that was in bank ownership. This action inadvertently gave protection to the historic interior. Had the house not been in foreclosure there would have been no method in place to prevent the owners from selling the interior features. At the request of Councilmember Robert Lilligren, the Minneapolis Heritage Preservation Commission took steps to designate the Hewson House as a Minneapolis landmark and established interim protection while the designation study was prepared.

Today, Gary Kirt of Bell Mortgage owns the Hewson House which is undergoing restoration efforts.2

The case of the Hewson House illustrates a topic that is fodder for debate among preservationists: the protection of historic interiors. There is remarkably little literature on the topic, and yet, as evidenced by the Hewson House, interiors are just as important as exteriors in historic structures. In fact, it could be argued that interiors are more important than exteriors as room configuration, decoration and style, floor plans, and alterations tell much more about a building’s history, its inhabitants, and social order than what one can glean from a building’s exterior alone. Interiors are highly integrated with the design of the building, and as Theodore H. M. Prudon writes in his book Preservation of Modern Architecture, interiors are “(somewhat undeservedly) secondary to the analysis of the architecture yet are fundamental to the overall understanding [of the] building.”3 Historic significance does not stop at the threshold. So why then, is it that the preservation and designation of interiors is a significant challenge in the preservation field? The answer to this question is rather complicated.

The practice of designating historically-significant interiors to ensure their protection is plagued with challenges that can seem daunting to even the most hardened of preservation commissions. Issues with public access, designation of publicly versus privately owned interiors, infringement on private property rights and entanglements with the Fifth Amendment, and the ability to designate private residences and museum pieces are the most notable problems.

Public accessibility and the designation of publicly versus privately owned properties are perhaps the most difficult issues in interior preservation. Public accessibility

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broadly refers to the ability of the general public to enter uninhibited into interior spaces. Typically, spaces that the public is customarily invited into, such as lobbies, hallways, and auditoriums are spaces that are designated as interior landmarks. Many cities that designate interiors also include theatres and restaurants as publically-accessibly spaces even though an admission charge may be required for entry. Other building types that frequently have significant interiors that may be considered for interior designations include but are not limited to: apartment and condominium buildings; hotels; banking institutions; train stations; cultural and educational buildings; office buildings; commercial buildings; and warehouses. Publically-accessible spaces comprise the majority of interior designations because they are precisely that: public. They are easier to monitor and protect from inappropriate changes that would alter the historic significance of the spaces. One of the basic, driving principles of historic preservation is to preserve our past for the benefit of all people. It could be argued that if the public, who is suppose to benefit from preserved places, is not given equal access to the space that it would seem unjustified to designated that interior. While determining if a designated interior requires public access to the space is complex in and of itself, further complications arise when these spaces are under private ownership.

Requiring public access to a space that is privately owned raises arguments about government infringement upon private property rights that are guaranteed in the Fifth Amendment. Should privately held buildings be required to let visitors into the historically significant interior for their viewing pleasure? Does requiring such public access to a privately-owned building constitute a “takings” without just compensation? This thesis will attempt to clarify these questions by examining a series of precedents and legal cases in the third chapter. It should be noted though, that courts have upheld interior designations of
private property when those interiors are spaces where the public is customarily invited, such as restaurants and theatres, but vehemently protects the rigid separation of church and state when the interior spaces under consideration are religiously affiliated. Several cities avoid restricting private property rights by only designating interiors of publicly owned buildings. Other cities designate the interiors of privately owned spaces when it is clear that public access and public use is an essential part of the building’s operation (as is the case with theatres and restaurants). While designation of privately owned buildings can certainly occur without public access, these situations tend to occur only when clear guidelines and a strong preservation ordinance can enforce such designations.

Designating the interiors of private residences can place undue government control over personal property. Residential interiors are highly subject to wholesale changes that parallel advances in technology and changes in fashion styles. As such, designation can severely limit the owner’s ability to function within his or her own home if they are not allowed to change the interior without prior approval from the local preservation commission. Additionally, private residences tend not to be open for public access. Most cities that designate interiors shy away from residential spaces preferring instead to focus on properties that can satisfy public accessibility standards. Public accessibility, private ownership and the complications therein are tangible preservation issues that must be addressed in both interior and exterior preservation.

The question of historic interiors owned by museums presents a situation rather unique to interior preservation. The case of the Little House, formerly of Wayzata, Minnesota, illustrates the complexity of this issue. Between 1913 and 1915, Frank Lloyd Wright built a stunning Prairie School style home for Francis and Mary Little on the shores of Lake Minnetonka, just west of Minneapolis. The house was considered one of Wright’s
last and greatest Prairie School residences. In 1972, the then-current owners of the house decided they needed a new home and not wanting to tear down the house, offered it to the Metropolitan Museum of Art in New York City for installation in their collection of “Period Rooms.” The house was systematically dismantled and sold, with various art museums purchasing parts of the home. The Metropolitan Museum of Art owns the living room while the Minneapolis Institute of Arts owns the hallway.4 The Little House exemplifies Wright’s concept of “organic architecture” in which the building, setting, interior, and furnishings were inextricably related. Few would argue that a Frank Lloyd Wright-designed house and interior is not significant, yet one has to wonder if the living room, or even the hallway, retains the historic significance they were praised for without existing within the context of the entire house and its setting.

Are interiors and exteriors inextricably bound together, or can one exist and retain its historic significance without the other? The Metropolitan Museum of Art (MET) in New York City has a large collection of “Period Rooms” that features intact, original interiors of buildings that no longer exist, like the Little House. The MET is not the only museum to do so. Are these interiors no longer historically noteworthy because they do not exist within their original environment? The National Register of Historic Places does not recognize such rooms as eligible for listing because the Register deals with properties in their entirety and in their original setting. As the Little House, the Period Rooms, and other museum-owned interiors serve to demonstrate, interior preservation opens the door for philosophical debate about the historic preservation field’s ability to adequately protect historically significant spaces.

The challenges of interior designation and preservation are substantial and are cause for wide discrepancy in the preservation field. While these challenges are considerable, they are not insurmountable. Local communities, states, and this country's legal system frequently recognize the practice of designating interiors as historic as a valid exercise of police power. Police power is the capacity of states to regulate behavior and enforce order within their boundary for the betterment of the welfare, morale, health, and safety of the general public.\textsuperscript{5} Numerous cities nationwide have enacted preservation ordinances that allow the designation of interiors that enrich the collection of built heritage in their community. This thesis, therefore, will demonstrate that historic interiors are not only protected through an array of preservation policies at all levels of government, but also that local governmental control is the most effective instrument for protecting such spaces.

Examining historic preservation policies of federal, state, and local governments and analyzing how these policies affects interiors will demonstrate that government at all levels has an "interest in protecting a community's built and cultural heritage, fostering civic pride, preserving the aesthetic environment, and promoting the economy."\textsuperscript{6} As a result of government's interest in protecting historic, cultural, and aesthetic values, the government recognizes that the designation of interiors is a no less valid approach to safeguarding those values.\textsuperscript{7} It is through local landmark designations that the government achieves such goals. In the United States Constitution, powers prohibited from or not delegated to the federal government are reserved to the states. Since the Federal Government is not granted constitutional authority to regulate private property the strongest protection for interiors occurs at the local level.

\textsuperscript{7} Handler, "Another Glimpse at Interiors," 22.
Furthermore, by evaluating five court cases that have applicability to interior designation, it will be shown that legal precedence for the designation of interiors has been established. Courts of law will uphold local interior designations when they explicitly authorize local commission’s authority to do so, when they do not interfere with private property rights, and when they do not challenge the strict separation of church and state. Additionally, the effectiveness and practice of interior designations will be shown in two case studies that highlight the preservation of two historically significant properties, one in Indianapolis and the other in Minneapolis.

Though this paper will conclude with a discussion of lessons learned and advice for preservation commissions on practical application of these lessons, it is important to note that this paper is not the definitive source on the protection and designation of historic interiors. The topic of interior preservation is far more expansive than can be included in one paper. For example, answers to philosophical questions about interiors raised in the discussion about Period Rooms the Metropolitan Museum of Art, while an absolutely necessary conversation needed to propel the preservation of interiors forward, will unfortunately, not be sufficiently answered in this thesis. This in no way belittles the value of these questions and answers, if indeed answers exist, but are rather used to suggest topics of further study. The scope of this paper is to demonstrate that the laws, policies, and standards that govern preservation, as they exist now, do serve to ensure that historic interiors are subject to controls that promote their designation and preservation.
Chapter 2

Historic Preservation in the United States: A History and Discussion of Preservation at the Federal, State, and Local Levels

Faithfully conserving and protecting the built environment that so strongly represents our heritage is a task that many nations have assumed. Iconic buildings, significant battlefields, exceptional natural landscapes, and important cultural artifacts are just some of the resources that nations and preservationists globally are working diligently to save. The United States is no different. In the United States, preservation history begins in earnest in the mid-nineteenth century though the tremendous efforts of Ann Pamela Cunningham and her following of dedicated middle-class women. Preservation grew in popularity and urgency from then until the 1960s when the federal government formally adopted a national preservation policy that still guides the movement today.

The establishment of the National Register of Historic Places, the standards of the Secretary of the Interior, and the formation of State Historic Preservation Offices are the direct result of the government taking an active role in preserving the historic, cultural, and aesthetic heritage of our nation. With the adoption of the National Preservation Act of 1966, state governments received a constitutional go-head from the federal government to take active roles in preservation as well, serving as liaisons for the national preservation program and fostering a preservation ethic in local communities. At the local level, governments passed historic preservation ordinances and use historic designations to promote and encourage the preservation of their city's unique history. It is in this history
and the policies at each level of government that the foundation for the protection and designation of interiors is established. It is also in this history that the unrivaled strength of the local government to protect interiors is established through the transfer of police power from the federal government to the local government.

This chapter will discuss the early history of preservation in the United States to demonstrate how these early acts have structured the preservation movement today. Additionally, a thorough study of national, state, and local preservation legislation, programs, and organizations, will be undertaken. These in-depth studies establish precedence for the preservation of historic interiors and are needed components to foster an understanding of the limits, challenges, and rewards of designating historic interior architecture.

**Early History of Preservation in the United States**

The history of historic preservation in the United States begins shortly after the founding of the country with the efforts of future-minded citizens wishing to preserve the places associated with notable Americans. Small house museums touting “Washington slept here!” and the preservation of other such patriotic sites and buildings comprise the majority of early preservation efforts. By the mid-nineteenth century however, changes in preservation ideology and the rise of strong-minded middle-class women set the groundwork for radical changes that gave rise to the modern preservation movement. Three notable examples of preservation during this time are worth discussing for their influence on the future of the preservation field, and their impact on historic interiors.

Though smaller events preceded it, the first recognized major preservation effort in the United States came in 1853 with the formation of the Mount Vernon Ladies’ Association.
Organized by Ann Pamela Cunningham with the single-minded goal of purchasing George Washington’s home, Mount Vernon, this patriotic group of woman raised funds to preserve this iconic piece of American history after it had been neglected and its prime location on the Potomac River was being sought for redevelopment. After successfully purchasing the home, the Ladies restored the exterior and interior of the house, room-by-room, returning the mansion to its former glory at a time when there was no historic preservation standards to guide their restoration.8 The efforts by the Ladies’ Association, which developed a national membership, became the blueprint for other preservation efforts led by strong women who also sought to protect the homes of other founding fathers, noted inventors, and community leaders. Though none were nearly as successful as the Mount Vernon Ladies’ Association, these efforts did result in the preservation of a few sites of national importance, such as Andrew Jackson’s Hermitage.

A second major preservation event was the creation of the Society for the Preservation of New England Antiquities (SPNEA). William Sumner Appleton founded the organization in 1910 after he heard of plans to significantly alter the eighteenth-century Jonathan Harrington House that was the site of a confrontation with British troops in the Revolutionary War. The loss of that important historic fabric spurred Appleton into action and drove him to actively purchase and preserve threatened historic properties. From 1910 until his passing in 1947, Appleton and SPNEA were responsible for the preservation of over ten “first period” houses, managing a collection of fifty-one historic properties that were purchased by the organization, and assembling the largest collection of New England

material culture in the nation. Today, SPNEA is known as Historic New England and is still a dominant force in preserving New England’s heritage.9

Appleton’s goal in saving buildings was not patriotic for he did not seek to preserve buildings for their association with great men or events. Rather, “Appleton’s prime criterion for preserving a building was its intrinsic architectural or aesthetic merit,” and he had a special interest in the modest dwellings of the first settlers’ in the New England area.10 Appleton’s interest in buildings for their architectural qualities was not unique to him, but was the result of a new national awareness that grew out of the Centennial Exposition of 1876 in Philadelphia. At the Exposition, Connecticut’s state exhibit showcased “quaint old architecture,” and colonial American houses as memorabilia of the state’s development and history. This focus on traditional, colonial architecture spurred a national interest in American buildings and architecture that laid the groundwork for Appleton’s efforts thirty years later. Translating these ideas into preservation, Appleton is responsible for establishing architectural qualities – i.e. aesthetics – as a legitimate criterion for preservation.11 Appleton is also credited with being one of the first preservationists to recognize the importance of preserving places associated with regional history, rather than just sites of national significance.

The third notable early preservation case is Susan Pringle Frost’s instrumental role in establishing the preservation ethic in the City of Charleston, South Carolina during the early 1930s. Frost’s concern for Charleston’s historic homes and architecture grew out of the proposed construction of gas stations in a historic residential neighborhood and news that homeowners were selling decorative detailing from interiors of important homes for

export and sale nationally. As such, Frost persuaded the City of Charleston to enact an "Old and Historic" district that established local zoning laws to govern acceptable practices for the historic structures within the district. The establishment of historic preservation zoning and ordinances in Charleston prompted other cities to follow suit to protect historic neighborhoods in their cities. The events in Charleston laid the groundwork for local government involvement in preservation, and helped reinforce the notion that preservation was not limited to landmarks of national significance.\textsuperscript{12}

The cases of the Mount Vernon Ladies' Association, the Society for the Preservation of New England Antiquities, and Charleston, South Carolina provide several key insights into the ideologies that fostered the early preservation movement in the United States, and specifically offer insights into preserving historic interiors.

The Mount Vernon Ladies' Association and Susan Pringle Frost demonstrate that early preservation efforts were led by strong women and through their guidance, preservation began exploring the notion that total cultural environments can and should be preserved. William Murtagh, the first Keeper of the National Register of Historic Places and a former vice president of the National Trust for Historic Preservation so aptly wrote of these women in his book \textit{Keeping Time}:

\begin{quote}
...their collective vision can be characterized as broad and their attitudes and action, tenacious. They are among those private leaders of American society who guided the transition of preservation from a preoccupation with isolated house museums to a neighborhood concern for the environments in which particularly notable buildings stood.\textsuperscript{13}
\end{quote}

In this same manner, historic places and structures that are significant to a specific city or region are valid preservation efforts, as the work of both Susan Pringle Frost and William Sumner Appleton illustrates. Switching preservation’s attention from patriotic acts

\begin{footnotes}
\footnotetext{12}{Murtagh, \textit{Keeping Time}, 44-45.}
\footnotetext{13}{Ibid., 23.}
\end{footnotes}
to protecting structures of local significance is absolutely critical to the preservation of interiors as it allowed for architectural, i.e. aesthetic values, of buildings to be valid criteria for preservation. Both Frost and Sumner sought validity for preserving structures based on the property’s visual and architectural significance, and as such, fostered a fundamental shift in preservation ideology.

Third, most importantly, these early preservation efforts led to "the belief that private citizens, not government, were the proper advocates for preservation."14 Since the first settlers arrived in America seeking religious freedom, America has been a country that shies away from strong federal government directives dictating the actions of its citizens, choosing instead to let local governments exert the most control over their constituents. It is not surprising, then, that this independent attitude was the guiding force behind early preservation efforts. It was not the government that would seek preservation for important historic sites, but rather individual citizens who recognized the importance of preserving such sites for their own city and regional history. A few local governments became involved in preservation in the early twentieth-century at the urging of their citizens; however government involvement, be it local, state, or federal, would not start taking an active role in historic preservation until the mid-twentieth century. As such, preservation in the United States was, and largely remains, a grassroots effort led by private individuals, and a lack of strict federal governmental directive has characterized the American preservation movement from the very beginning.

The United States Federal Government and Historic Preservation

In the early twentieth century, legislation that grew out of a concern for America’s natural resources played an important role in establishing the groundwork for future

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14 Murtagh, Keeping Time, 16.
federal preservation policies. The United States’ federal government’s involvement in historic preservation began in earnest in 1966 with the passage of the National Historic Preservation Act. It is this Act that established a national preservation policy and agenda that still controls how the field is managed even today. These early attempts at preservation policies, coupled with the Preservation Act and its resulting national programs and organizations, also play a significant role in establishing the basic structure for the protection and designation of historic interiors.

_Antiquities Act of 1906_

The passage of the Antiquities Act of 1906 established congressional and presidential authority to set aside for protection "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States…. (Appendix A)"15 While intended primarily for natural features, the Antiquities Act gave the US government the authority to designate sites as historic, thus providing the footings to manage future historic preservation programs.

_Historic Sites Act of 1935_

A second Act, the Historic Sites Act of 1935, was an Act that instituted “a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States (Appendix B).”16 As such, the Historic Sites Act was the first assertion of historic preservation as a government duty. This stands in contrast to the Antiquities Act that only allowed for the creation of historic

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sites, but did not mandate it. These two Acts, together with the creation of the National Park Service in 1916, played a major role in fostering the development of a federal historic preservation policy in 1966.

National Historic Preservation Act of 1966

The National Historic Preservation Act of 1966 is the most far-reaching preservation legislation ever enacted in the United States. President Lyndon B. Johnson signed the law, which is the federal government’s declaration that “the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.”17 The government also recognized that the “preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans (Appendix C).”18

The purpose of the Preservation Act was to establish a supporting role for government in preservation; it was not to declare the government as the head of preservation activities. The Act states:

...although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.19

In short, the Act promoted the government's belief that preservation is a worthy mandated

18 Ibid.
19 Ibid.
effort while taking a decentralized role and delegating its powers to state and local governments.

The National Historic Preservation Act had a major influence on preservation as a whole in the United States. Most importantly, the Act is responsible for creating the fundamental system of cultural resource management that is employed today by all levels of government and by preservation professionals throughout the nation. The Act also created the National Register of Historic Places as an official record of all historic properties worthy of preservation. Additionally, the Act stimulated preservation efforts in the states by mandating the creation of State Historic Preservation Offices and charging the offices to oversee federal preservation policies at the state level. The Advisory Council on Historic Preservation, an independent federal agency that promotes preservation, and advises the President and Congress on national historic preservation policy was also created.20 Finally, the Act required federal agencies to be responsible for the identification and proper documentation and management of their historic resources through the review process known as Section 106.21 The Preservation Act has been amended three times and remains the foundation of preservation policy in the United States. Additional federal standards and programs, such as the Secretary of Interior's Standards for the Treatment of Historic Properties and the Federal Rehabilitation Investment Tax Credit, compliment our government's policy of preservation. The role each of these components plays in preserving historic interiors should not be underestimated.

The National Preservation Act forms the basis for preservation within the United

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21 Section 106 of the National Historic Preservation Act mandates federal agencies undergo a review process for all federally-funded and permitted projects that will impact sites listed on, or eligible for listing on, the National Register of Historic Places. The main purpose for the establishment of the Section 106 review process is to minimize potential harm and damage to historic properties.
States, however the Act itself says nothing of historic interiors. Broad, general terminology is used through the document, such as “heritage, historic properties, buildings, historic resources,” instead of specific terms such as “exterior” or “interior.” While it may seem that the lack of identifying interiors hinders such preservation efforts, the Act actually promotes all preservation activities. The Act was written to be a broad overview of preservation and set the Federal government’s philosophy and policies regarding historic preservation. The intent of the law was not to prescribe specific activities, but rather be as comprehensive as possible. By not itemizing specific preservation behavior and instead broadly discussing the treatment of historic properties, the language of the Act is inclusive of all preservation activities, including interiors.

National Register of Historic Places

The National Register of Historic Places was created by the Preservation Act of 1966 and is the official list of buildings, sites, districts, structures, and objects in America that are worthy of preservation. The National Register is maintained by the National Park Service and is a national program that supports public and private efforts to identify, evaluate, and protect America’s historic and archeological resources. Though instrumental in distinguishing historic properties, it is important to note that National Register listing affords very limited protection for properties in the register. Listing in the register does not ensure that a property is protected from neglect, demolition, or alteration. National Register listing is primarily recognition of a property’s historic value to the community, state, or nation.

The widespread perception of the National Register, like that of the National Preservation Act, is that the program includes interiors and exteriors despite the omission
of specific language to that effect. The language used in the National Register applies to the property in its entirety; interiors are not singled out as separate features but are included with all of the qualities that contribute to property's significance. The National Register documents historic properties in their totality; therefore listing in the National Register applies to both the building’s exterior and interior.

Section 7 – Description, of the National Register nomination form requires all individually properties to have a thorough written description to identify all character-defining features that contribute to the property’s significance (Appendix D). Character-defining features typically include the “floor plan, arrangement of spaces, and features and applied finishes, [that] may be individually or collectively important in defining the historic character of the building and the purpose for which it was constructed.” In addition, the National Register also requires a written narrative that demonstrates how an interior is significant and illustrative of a specific style or type. Beyond requiring an interior description and statement of significance, there is nothing that specifically addresses interiors on the National Register because the Register views properties as a whole, not in terms of an interior or exterior. There is no check box to tick on the form to denote a significant interior, nor does one of the four criteria for significance explicitly mention interiors.

An important distinction needs to be made between properties nominated to the register individually and properties within an historic district nomination. When properties are part of an historic district nomination descriptions of the interior are not required. This is because exteriors are viewed as contributing to the environment of the historic district, but the interiors are not. This does not mean that only exteriors of

properties within historic districts are listed in the National Register. Even in historic districts, the entire property, interior and exterior, is listed in the National Register despite not requiring an interior description of each property. Any outstanding or notable interiors within the district, like theatres, should however be mentioned in Part 7 – Description, in the nomination.

While being non-specific in what meets the National Register criteria, the National Register criteria are very specific about what cannot be listed. The National Register criteria are written to ensure that properties exhibit the historic character that gave the property its significance. Properties with significant alterations may not be eligible for listing if the essential features that defined why and when it was significant are no longer identifiable. The National Register recognizes that properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics, however the property must retain the essential physical features, interior and exterior, that enables it to convey its historic identity. It is this reason that the living room of Frank Lloyd Wright’s Little House and other museum-owned interiors are not eligible for National Register listing. Despite the National Register no longer considering such rooms eligible for National Register, caution is advised in thinking that interiors divorced from their exteriors no longer have any historic significance. Just the opposite is true. Artifacts from King Tut’s tomb seen in a museum setting are appreciated for their artistic value and historic importance even though the tomb itself and its context have been completely disturbed. In this same manor, the Period Rooms and other such museum rooms still have historic value.

despite a preservation point of view saying they have lost their architectural context. Their value is more as an "artifact" and aesthetic piece.24

National Register Bulletin #15, How to Apply the National Register Criteria for Evaluation specifically addresses how to evaluate interiors for the National Register. In some instances, the National Register recognizes that a building is defined by its exterior and its "contribution to the built environment can be appreciated even if [its] interiors are not accessible."25 This applies to buildings such as the iconic steel-framed Chicago skyscrapers whose exteriors clearly exhibit the great advances in technology and engineering in the late-nineteenth century. In other instances, the National Register recognizes that sometimes buildings are defined by their interiors. Covered train sheds of the 19th century and the Cleveland Arcade (National Register Reference No. 73001408) are such examples. In examples like these, the loss of an interior can disqualify properties from listing because the property would lose its historic value. For example, "a historic concert hall noted for the beauty of its auditorium and its fine acoustic qualities would be the type of property that if it were to lose its interior, it would lose its value as a historic resource."26 Evaluating interiors and exteriors can be a difficult process and in each situation, particular attention is paid to the significance of the property and the remaining historic features to determine eligibility for National Register listing.

Despite the realization that National Register is inclusive of interiors, there may be ways to increase interior recognition on National Register nomination forms. For example, a check box on the nomination form that when checked signifies this property has a significant interior could help distinguish properties with important interiors from those with less noteworthy interiors. Adding a fifth significance criterion option that applies

24 Frank Hurdis, <FHurdis@dnr.in.gov> "Thesis," 15 March 2012, personal e-mail (15 March 2012).
25 Shrimpton, National Register Bulletin 15.
26 Ibid.
specifically to interiors may be another option. While both options present benefits in advancing the preservation of interiors, they both raise questions as well. Specifically, how does one determine degrees of importance for interiors? Are architect or interior designer designed interiors significant and vernacular forms are not? Adding a check box may mean that the importance of interiors is subjective to the opinion of the nominator. Adding a fifth significance criterion may duplicate criterion already in use, specifically criterion C that deals with architectural significance.

Regardless of one's opinions on whether the National Register can do more to promote recognition of historic interiors, the Register affords the same limited protections to both interiors and exteriors. The National Register is a means of identifying those properties that possess local, state and/or national significance; it is other federal policies and legislation that exert more direct influence over the preservation of historic interiors.

\textit{Secretary of the Interior's Standards for the Treatment of Historic Properties}

The National Preservation Act gave the Secretary of the Interior authority over the national preservation program. It became the Secretary's duty to establish standards for all preservation programs under Departmental authority and for advising federal agencies on the preservation of historic properties listed or eligible for listing in the National Register of Historic Places. Originally published in 1977 and revised in 1990, the Secretary of the Interior's Standards for the Treatment of Historic Properties do just that. The Standards are “intended to guide historic building owners and building managers, preservation consultants, architects, contractors and project reviewers prior to treatment” in determining which of the four preservation approaches are most appropriate for their
building and their goals. They pertain to historic buildings of all materials, sizes, and construction types, and they encompass both the exterior and interior of historic buildings. The Standards also apply to the building's site and environment, related landscape features, and attached, adjacent, or related new construction. It is important to note however, that the “Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our nation's irreplaceable cultural resources. For example, they cannot, in and of themselves, be used to make essential decisions about which features of the historic building should be saved and which can be changed.” The Standards are for the treatment, not evaluation, of historic properties. “But once a treatment is selected, the Standards provide philosophical consistency to the work.”

The Standards apply to both interiors and exteriors, but little is said about interiors specifically. The Standards do say, however, that the “interior floor plan, the arrangement and sequence of spaces, and built-in features and applied finishes are individually and collectively important in defining the historic character of the building.” As such, any extensive changes to interior spaces should be made in the less important secondary spaces that are typically more functional than decorative, and where such changes will not have a detrimental effect on the overall historic character of the interior. Spaces like kitchens, bathrooms, mailrooms, and utility rooms qualify. The Standards do not preclude interiors from being altered, but rather requires changes to not compromise the existing features.

28 Ibid., 1.
29 Ibid., 1.
30 Ibid., 11.
The Secretary’s Standards discuss four treatment options for the preservation of historic properties and each option exerts its own criteria on the protection of interiors. The first option is *preservation*. Preservation is a method used for reflecting a building’s change over time and the Secretary’s Standards advocate for the conservation of all historic fabric of the building, exterior and interiors included. *Rehabilitation* is a second treatment option and while it is recommended to retain all historic features, more latitude is granted since rehabilitation projects typically occur on properties where deterioration of materials is cause for repair. In projects involving *restoration*, a specific important period of time is determined and the house is restored to that period. This may involve removing features that do not comply with the chosen period, including exterior and interior finishes. The fourth option is *reconstruction*. As its name implies, reconstruction projects reproduce missing elements or in some cases, reconstruct an entire building. In some cases, reconstruction can be beneficial for interiors. For example, if a historically significant theatre is being rehabilitated, missing or severely deteriorated interior features may be reconstructed so that the overall historic character of the theatre is retained.

Since the Secretary’s Standards are neither technical nor prescriptive, there is no legal authority to enforce compliance. The Standards, however, have become the benchmark in preservation for any preservation project and most preservation work is expected to comply. This is certainly true for projects involving properties that are eligible for or listed in the National Register.

*Federal Rehabilitation Investment Tax Credit*

The Federal Rehabilitation Investment Tax Credit (FRITC) was created in 1976 to allow property owners to take a twenty percent federal tax credit on approved restorations,
rehabilitations, and preservations of an income-producing property listed on the National Register of Historic Places. The Technical Preservation Services (TPS) branch of the National Park Service administers the program. The FRITC plays an important role in the protection of historic interiors by requiring properties listed in the National Register or eligible for the National Register (provided they are listed in the National Register by the time the building is “placed in service”) undergoing rehabilitation, restoration, or preservation to comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

In order to be eligible for the tax credit, the National Park Service requires that the property be historic and that a good-faith attempt be made at retaining exterior and interior character-defining features; the character-defining features of each project should have been specifically addressed in the National Register nomination for the property. The National Park Service reserves the right to disqualify a project from claiming the tax credit, or even remove a property from the National Register, if its interior or exterior character-defining features are so significantly altered that the property loses its historic significance. The FRITC does not prevent all interior features from being changed, nor does the Secretary's Standards for that matter, but both the FRITC and the Standards serve as a strong motivator for retaining and preserving historic interiors.

*State Governments and Historic Preservation*

When the federal government passed the Preservation Act of 1966 it gave authority over the program to the Secretary of the Interior. Shortly after the Act’s passage, then Secretary of the Interior, Stewart L. Udall, decided to decentralize his duties and required

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32 Ibid.
each of the 50 states and the US territories to create a State Historic Preservation Office (SHPO). The State Historic Preservation Office’s job is to act as the chief liaison between the federal government and the public and private state and local preservation organizations. Udall charged each SHPO with three primary responsibilities. The first is the responsibility for surveying the sites, buildings, objects, districts, and structures within their state to identify historic resources. The second is to develop statewide preservation plans that address preservation within the state. And the third is to assist the restoration and rehabilitation of the resources identified in the survey through the distribution of state grants-in-aid to local preservation partners.

Surveying for historic resources plays a critical role in identifying significant buildings and historic districts within a state. Once such resources have been identified, the SHPO can then work with local partners to promote preservation related outcomes for these spaces. Not all states have been as actively involved as they might be in surveying for historic resources. Of the states that do actively pursue statewide surveying efforts, it is doubtful that any require interior descriptions because surveying is often done from the right-of-way so as not to infringe upon private property rights for properties in private ownership. This places pressure on local preservation advocates to identify and protect historic buildings and interiors within their communities.

State Historic Preservation Offices can be advocates for interiors by providing rehabilitation grants and other economic incentives to local public and private preservation organizations for the preservation and rehabilitation of designated interiors. The Historic Preservation Fund is federal money given to the National Park Service for distribution annually to SHPOs. Each state receives an allocation of these funds and they be used for a

33 Murtagh, Keeping Time, 163.
34 Ibid., 56.
variety of services, but part of that money must be used for grants given to local ordinances. Various types of grants can be given, however, promoting the use of such funds for interior restoration can help boost the number of interiors that are restored. The passage of state preservation rehabilitation tax credits, modeled on the federal tax credit, also can support the preservation of interiors by allowing a percentage of tax credits to be taken for approved restorations of designated historic interiors. Holding interior easements, if state legislation allows, or working with local nonprofit organizations that hold easements is another preservation tool SHPO offices can use to protect interiors. Interior easements, like exterior façade easements, ensure that an interior retains its historically significant appearance into perpetuity by allowing the owner to “donate” the easement to the easement holder and take a tax deduction on the value of the easement. Interior easements ensures, among others, that room sizes remain the same, features such as woodwork and flooring are kept intact, and original lathe and plaster is restored and not replaced by sheetrock.35

Like SHPO’s, individual states themselves play an important role in protecting interiors through the passage of state historic preservation legislation. State-enabling legislation “acts as a grant of police power authority from the state to the local government.”36 While varying widely from one state to another, state-enabling legislation for historic preservation grants specific powers and authority to local governments to pass preservation ordinances for the preservation and protection of historic properties in their communities, through the regulation of private property.37 “The level of protection afforded to historic resources under a local preservation ordinance must correspond with the

regulatory scope of applicable state enabling laws.”

In other words, each municipality that passes local preservation ordinances must comply with the authority granted to them in the state enabling legislation. Generally speaking, state-enabling legislation authorizes local governments to regulate private actions that affect historic properties under their jurisdiction through a specified permitting process. Authorities granted may include the ability to designate historic properties and districts, designate interiors, and the ability to regulate alterations, demolition or new construction on designated historic properties. Some states may also provide provisions for considerations of economic hardship claims, special merit exceptions, and demolition by neglect and appeals processes.

State-enabling legislations provide the framework for how preservation is practiced in local communities. In order for a municipality to designate historic interiors, the state-enabling legislation must provide provisions for such activities in its language. While the best legislation explicitly mentions interiors by name and clearly lays out how local governments may protect interiors, not all states that protect interiors have such direct language. Many local preservation commissions protecting interiors are able to do so despite such explicit language because the enabling legislation does not specifically prohibit such actions.

Though a rather unique situation, the state of Indiana provides insight into the importance of enabling legislations. Unlike most states, the Indiana legislature has two different enabling legislations: one that governs the creation of a preservation commission in the city of Indianapolis, and one that governs the creation of preservation commissions in

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39 Ibid., 8.
the rest of the state (Appendix E). In the Indianapolis legislation, the language clearly and explicitly grants power to the commission to designate interiors as historic. Section 6(c) of the legislation reads: “with the designation of a historic structure, the plan may additionally expressly identify and designate the interior, or any interior architectural or structural feature of it, having exceptional historic or architectural significance.” In contrast, the legislation for the rest of Indiana clearly prohibits interior designation:

The commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in the historic district. However, the commission may not consider details of design, interior arrangements, or building features if those details, arrangements or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district. (emphasis added)

Every state has taken a different approach to interior designation and not every state so clearly provides or denies interior preservation in their state-enabling legislation. In cases where states have not explicitly granted local commissions the ability to designate interiors, it is important that the legislation does not include language that prevents local commissions from doing so. In this instance, Minnesota serves as an example. Minnesota’s state-enabling legislation says nothing of providing the authority of interior designation to local commissions. However, subsection 3 of the statute reads, “[t]he powers and duties of any commission established pursuant to this section may include any power possessed by the political subdivision creating the commission, but shall be those delegated or assigned by the ordinance establishing the commission (Appendix F).” In Minnesota, local governments are granted authority to establish preservation commissions and these

40 Current Indianapolis Historic Preservation Commission staff was unable to explain why Indianapolis’ legislation differs from the rest of state. It was suggested that Indianapolis’ rare UniGov system is part of the reason, but a definitive answer was never found.
41 Indianapolis Historic Preservation Commission Statute, Indiana Code, IC 36-7-11.1.
42 Indiana State Enabling Statute, Indiana Code, IC 36-7-11-5.
43 Municipal Heritage Commission, Minnesota Statute, 471.193.
commissions are able to possess any preservation power they so choose, as long as that power is contained within the ordinance creating the local commission. In short, a local commission that chooses to landmark interiors is able to do so provided that their local preservation ordinance grants such authority. While not mentioning interiors in the state legislation may mean that some commissions may not consider granting themselves the ability to protect interiors, the language of the statue does not prevent commissions from doing so.

**Local Governments and Historic Preservation**

State-enabling legislation that grants power to designate interiors is a key factor in having the legal teeth to preserve historic interiors, however, the strongest validation for interior preservation comes from the creation of local historic preservation ordinances granted by the state enabling legislations. It is this legislation that gives cities the power to form preservation commissions who are legally able to designate interiors as historic and enforce such designation (provided the state enabling legislation grants such power). Not every city in the United States has enacted a local preservation ordinance; it is quite common for major cities like Boston, Detroit, and Los Angeles to have such preservation ordinances, or landmark ordinances as they are sometimes called, though smaller and rural towns often, but not always, lack the political incentives to advocate for their creation. Thankfully, cities are able to pass preservation ordinances when the time is right in their community.

In 2007, the Preservation Alliance of Greater Philadelphia released a study on interior designations they conducted when the Heritage Preservation Commission of the City of Philadelphia sought to examine the possibility of amending the City's Historic
Preservation Ordinance to include the designation of interiors. The study surveyed twenty
cities nationwide to determine to what degree they designate interiors and how their local
ordinances and state legislation supports or prohibits such designations. The findings
revealed “designation of interiors was a component of preservation activities in many cities
and in many states.” Soon after the study was released, Philadelphia joined the ranks of
cities designating interiors by successfully amended their local ordinance to include interior
designations. The twenty cities surveyed by the Preservation Alliance of Greater
Philadelphia serve as examples of how varied local preservation ordinances can be
(Appendix G). Examples from the Philadelphia survey and several other major cities not
included in the original study highlight the importance of local preservation ordinances in
protecting historic interiors.

In Minnesota, Minneapolis’ historic preservation ordinance grants authority to the
heritage preservation commission to designate interiors as landmarks. Its ordinance
defines a “landmark” as “any property, or any interior of a building, designated as a
landmark by the city council because of its historical, cultural, architectural, archaeological
or engineering significance. (Appendix H)” Minneapolis’ local ordinance explicitly
mentions interiors and the same holds true in New York City, however, New York City’s
ordinance comes with the caveat of public accessibility (Appendix I). New York City’s
Landmark Ordinances states:

...the Commission is authorized to landmark an interior 30 or more years old that is
customarily open or accessible to the public, or to which the public is customarily
invited, and which has a special historical or aesthetic interest or value as part of the
development, heritage or cultural characteristics of the city, state or nation.

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44 Protecting Historic Interiors: A Survey of Preservation Practices and Their Implications for Philadelphia,
45 Historic Preservation, Minneapolis Code of Ordinances, Title 23, Chapter 599.
<http://library.municode.com/index.aspx?clientId=11490&stateId=23&stateName=minnesota&ds=historic+preservation>
(accessed 14 January 2012).
46 Protecting Historic Interiors, 10.
In contrast to both Minneapolis and New York City, the City of Chicago regularly designates interiors as historic despite their local ordinance's lack of directly mentioning interiors (For full text see Appendix J). Chicago's Landmark ordinance reads:

...to identify, preserve, protect, enhance, and encourage the continued utilization and the rehabilitation of such areas, districts, places, buildings, structures, works of art, and other objects having a special historical, community, architectural, or aesthetic interest or value to the City of Chicago and its citizens.\footnote{Commission on Chicago Historical and Architectural Landmarks, Municipal Code of Chicago, 2-120-580, <http://www.amlegal.com/nxtgateway.dll/illinois/chicago_il/title2citygovernmentandadministration/chapter2comissionersonandcommissions?fn=templates$fn=default.htm$3.0$vid=amlegal:chicago_il$anc=J0_2-120-580> (accessed 15 January 2012).}

The Chicago Landmarks ordinance has regularly been interpreted as protecting interiors and once a property has been designated as historic, a specific ordinance relating to that property is created. It is within these landmark-specific ordinances that significant interior spaces are included.

Minneapolis, New York City, and Chicago represent only three local ordinance approaches to designating interiors, but they serve to show that there is a wide range in protecting interiors on a local level. Some local ordinances explicitly mention interiors, others do not mention interiors by name but are interpreted as protecting interiors, while others mention nothing and are unequivocally known for not protecting interiors. The importance of ensuring that local preservation ordinances explicitly provide a means for protecting interiors cannot be overstated. Hazy and indirect language that does not clearly define a municipality's stance on interior preservation provides opportunity for legal challenges that may prove disastrous for interiors in the long run. The following chapter will discuss the importance of precise ordinance language in further detail.

Designating interiors is not nearly as simple as ensuring local preservation ordinances provide a process for their protection. Local governments must have clearly
defined answers to rather problematic situations associated with interior preservation. Issues of public accessibility and the designation of public or privately owned properties is the most sensitive issue and its complications have already been discussed. Commissions must also determine whether owner consent is necessary for designation, establish the ability to enforce designation, and outline the ability to offer incentives. These issues must be unquestionably defined in a city’s ordinance. Failure to do so, as several court cases discussed in the following chapter will demonstrate, may result in a failure to protect the interior, lawsuits against the city, or even the destruction of the property.

When a local ordinance grants authority to designate interiors, it can do so in one or both of two ways: the designation of interior features and the designation of interior landmarks. Interior features are typically defined as “architectural elements essential to the character of the interior of a designated landmark.”48 This is in contrast to interior landmarks which are usually designated as such when an “interior is a building’s most distinct and important architectural feature.”49 An interior landmark may be designated on its own; meaning the interior but not the exterior of the building is designated, but more typically are recognized as part of an entire building designation. In cities that designate interior landmarks, the same criteria used to designate exterior landmarks must also be the criteria used to landmark an interior. If an exterior is expected to possess characteristics such as integrity of location, embody a specific type, style or period, and/or represent the work of a master, so too must the interior before landmarking may occur.50

Owner consent and whether lack of owner consent precludes designation must also be plainly defined in a preservation ordinance. Most cities do not require owner consent for designation of privately held interiors; Chicago and Boston are examples. Other cities like

48 Protecting Historic Interiors, 7.
49 Ibid., 7.
50 Ibid., 8-9.
San Francisco, California, and Telluride, Colorado, do not require owner consent but seek owner involvement as a courtesy. Some cities avoid challenging private property rights altogether by only designating publically owned buildings.\textsuperscript{51}

Once an interior has been designated, a local commission’s ability to enforce the designation and apply fines and penalties for lack of adherence needs to be addressed. Interiors are often subject to commission approval before changes and alterations to the interior may be made; the circumstances and changes that require commission approval should be fully stated in the ordinance and presented to the property owner so that future confusion is prevented.

Commissions need be cautious when designating interiors and interior features so as to not infringe upon private property rights. This is especially true when designating items of personal property that are deemed integral elements to the interior’s significance. As Richard Handler writes in his article \textit{Another Glimpse at Interiors} for the National Alliance of Preservation Commissions, “designating an item of personal property and then requiring a Certificate of Appropriateness before it can be removed, conjures up a sense of extreme power and often invokes fears in the owner, or the public, of overreaching or interference with the sanctity of personal choice and taste.”\textsuperscript{52} In anticipation of challenges such as this the commission must in advance “strongly articulate the relationship between the designated component and its natures as an integral element of the interior,” and ensure their local ordinance approves of such designations.\textsuperscript{53} Often drafting a comprehensive “Decision” piece where there has been strong objection to a commission action can help ease what can be rather difficult situations.

\begin{footnotes}
\item[51] Protecting Historic Interiors, 37.
\item[52] Handler, “Another Glimpse at Interiors,” 21.
\item[53] Ibid.
\end{footnotes}
Many of the same incentives that support preservation of exteriors can apply to interiors. Commissions and ordinances should be mindful of including and promoting the use of such incentives for designated historic interiors. North Carolina, Michigan, and California allow state tax credits that encourage the rehabilitation of locally designated properties, and calculate the amount of the credit based on percentage of the property that has been designated. In Chicago, county tax credits can support rehabilitation efforts of interiors. Seattle, Washington relaxes certain building code requirements for locally designated properties. Other cities, such as Charleston, South Carolina, offer preservation easements on interiors to facilitate their preservation and protection.

Designating historic interiors is a common preservation method used by many cities nationwide. Countless treasures have been protected and restored through the efforts of cities that have recognized the importance of protecting properties in their entirety. Local preservation ordinances, legitimized by state enabling legislation, provide the best protections for interiors. The strongest and most effective ordinances are ones that give explicit authority to the local commission to designate interiors, explains in what manner interiors are protected, whether through interior designations, interior landmarks, or both, defines the city’s policy on sensitive issues like public accessibility and private property rights, and leaves no legal ambiguity as to the strength of the law.

Summary of Federal, State, and Local Governments and Historic Preservation

Historic preservation in the United States has a long and storied history that begins with the days of Ann Pamela Cunningham and her Ladies’ Association rallying to save

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54 Protecting Historic Interiors, 10.
55 A property’s listing on the National Register also makes properties eligible for certain alternates related to fire and life safety in the International Building Code. See: http://www.nps.gov/nr/national_register_fundamentals.htm#results
56 Protecting Historic Interiors, 9.
George Washington’s then-distressed home of Mount Vernon. It has grown into a nationwide movement that works predominantly through grassroots efforts with the support of government legislation to preserve historic sites, buildings, structures, objects, and landscapes that represent the collective history of our local communities and nation. Though the federal government delivers its preservation opinions through several programs, it is at the state and local levels of government that the most control and authority over preservation activities and the preservation and designation of interiors is found.

While one might argue that interiors are not afforded the same protections as exteriors, the issue lies in education and awareness, rather than a lack of applicable protections. Federal, state, and local levels of government offer several methods for encouraging the protection of historic interiors. Interior preservation is certainly made complicated by Fifth Amendment private property rights and public accessibility issues, however the numbers of cities that have enacted interior preservation policies demonstrate that these concerns are not insurmountable. It usually only takes the loss of one significant building, or interior as the case may be, before local preservation advocates seek stronger policies in support of preservation. Today, more and more communities are taking proactive approaches to protect interiors. As this chapter has highlighted, there are governmental precedents for interior designation, and as the next chapter will show, there is strong legal precedence for interior designation as well.
Chapter 3
Legal Precedents:
Making the Case for Interior Preservation

One of the most effective means to designating and protecting historic interiors is having legal justification to do so. Preservation laws, state-enabling legislation, and local preservation ordinances are strong preservation tools for designating interiors, but if these tools are unable to withstand legal scrutiny, their effectiveness greatly diminishes. Without the protection of the law, historic interiors can be subject to alteration and demolition by shortsighted owners, politicians, and public policy that may not recognize the importance of the space. Four influential court cases – Weinberg v. Barry (1986), Teachers Insurance & Annuity Association of America v. City of New York (1993), Sameric Corporation of Chestnut Street Inc., v. City of Philadelphia (1993), and Society of Jesus v. Boston Landmarks Commission (1990) – form the foundation for the legal basis for interior designation. These cases emphasize that a strongly written, clear preservation ordinance that designates interiors is a valid exercise of police power. These cases also highlight that a lack of public access does not necessarily preclude interior designation. The limits of legal protection for interiors are also addressed, as two cases demonstrate the detrimental effects of designating without a local preservation ordinance and the restrictions of the law when working with religious properties. These four interior court cases, coupled with the seminal Penn Central case of 1978, have substantial interior preservation implications throughout the country.
The ultimate preservation court case is the 1978 case of *Penn Central Transportation Company v. New York City*. Under the New York City Landmark Preservation Law of 1965, Grand Central Terminal (Terminal) was designated as an historic landmark in 1967. Though Penn Central Transportation Company (Penn Central) opposed landmark designation of the Terminal at the time they did not seek judicial review against the final designation decision. After the Terminal was designated as a landmark, Penn Central entered into a lease with UGP Properties to construct a multistory office tower above the Terminal and commissioned renowned architect Marcel Breuer to propose designs. The New York City Landmarks Commission denied the approval of a Certificate of Appropriateness for the proposed tower and in response, Penn Central filed suit in state court against New York City. Penn Central claimed that the application of the Landmarks Law to the Terminal had “taken” their property without just compensation in violation of the Fifth and Fourteenth Amendments, as they were not permitted to take full advantage of their air rights above the building. Additionally, they argued that the Landmarks Law arbitrarily deprived them of their property without due process of law, again in violation of the Fourteenth Amendment.\(^57\)

The trial court found in favor of Penn Central, though that decision was reversed upon appeal in favor of New York City. When the case reached the New York Court of Appeals, the Court upheld the decision that the application of the Landmarks Law to the Terminal does not constitute a “taking” under the Fifth and Fourteenth Amendments. The Appeals Court concluded that there had been no “taking” as the Landmarks Law had not transferred control of the building to the City, but was merely restricting Penn Central’s

exploitation of the property.\footnote{Lloyd, “Interior Preservation,” 7-10.} Additionally, the Court held that there was no denial of due process under the Fourteenth Amendment because:

(1) the same use of the Terminal was permitted as before; (2) the appellants had not shown that they could not earn a reasonable return on their investment in the Terminal itself; (3) even if the Terminal proper could never operate at a reasonable profit, some of the income from Penn Central’s extensive real estate holdings in the area must realistically be imputed to the Terminal; and (4) the development rights above the Terminal, which were made transferable to numerous sites in the vicinity, provided significant compensation for loss of rights above the Terminal itself.\footnote{Penn Central Transportation Company v. New York City, 438 U.S. 104 (1978).}

Unsatisfied by the Appeals Courts determination, Penn Central was successful in petitioning the United States Supreme Court to hear the case. The Supreme Court was asked to debate whether the restrictions imposed by New York City's Landmarks Law upon Penn Central that prevented their exploitation of the Terminal's site was a “takings” of their property for public use under the Fifth Amendment. If so, the court was to determine whether the transferable development rights afforded “just compensation” within the specifications of the Fifth Amendment. Justice William J. Brennan delivered the opinion of the Court, which upheld the decision of the Appeals Court that said that the Landmarks Law did not constitute a “takings” on the Terminal.\footnote{Ibid.}

Though the implications of the Penn Central decision have had a pronounced impact on land-use and takings law since its opinion was delivered, the case has implicit effects on historic preservation. Most importantly, the case validates a community’s ability to adopt laws and regulations that are designed to protect and enhance the quality of life of their citizens, specifically through the use of historic preservation ordinances. Essentially, as Johnathan Lloyd argues in his article “Interior Preservation: In or Out?,” Penn Central gave the “constitutional go-ahead to municipalities to create their own historic preservation
ordinances.”\textsuperscript{61} Additionally, the decision made clear that the regulation of private property does not constitute a taking when a legitimate government interest is advanced and the property owner retains viable use of their property.\textsuperscript{62} It is important to note that the Penn Central decision does not guarantee a property owner the highest and best use of their property, but rather provides that a taking is not constituted when some economic use of their property is still feasible. As Lloyd states, Penn Central "makes it absolutely clear that mere diminution of value does not constitute a takings."\textsuperscript{63} The value of this decision and its implications for historic preservation cannot be overstated.

In regards to interiors, the Penn Central decision is important for not only does it mean that communities can enact preservation ordinances to protect historic properties, which includes interiors, but also implies that an interior designation does not constitute a taking of private property. As the following four court cases will expand upon, a municipality's ability to designate interiors has legal precedence beyond the rulings of Penn Central. Two cases show how courts can uphold interior designations, while one demonstrates the importance of local preservation ordinances, and the final addresses the challenges to interior designation when working with religious properties.

\textit{Weinberg v. Barry, 1986.}

The first case discussed in interior preservation law is \textit{Weinberg v. Barry, 634 F. Supp. 86 - Dist. Court, Dist. of Columbia 1986}. In 1978, the "District of Columbia Historic Landmark and Historic District Preservation Act" (D.C. Act) was enacted with the purpose:

\begin{quote}
"...to accomplish the protection, enhancement and perpetuation of features of landmarks which represent distinctive elements of the city's cultural, social,
\end{quote}

\textsuperscript{61} Lloyd, "Interior Preservation," 9.
\textsuperscript{63} Lloyd, "Interior Preservation," 10.
economic, political and architectural history; to safeguard the city’s historic, aesthetic and cultural heritage; to foster civil pride in the accomplishments of the past; to protect and enhance the city’s attraction to visitors, thereby supporting and stimulating the economy; and to promote the use of landmarks and historic districts for the education, pleasure and welfare of the people of the District of Columbia.”

The D.C. Act was the impetus for preservation in the District of Columbia and upon passage of the Act, several groups applied for landmark status for the city’s most notable buildings.

One of these significant buildings was the Werner Building, a large performing arts theatre as well as office suites. The nonprofit preservation group Don’t Tear It Down, Inc. filed an application for the designation of the exterior of the Warner Theatre as an historic landmark April 6, 1981. On November 24, 1982, a second application seeking to designate the interior portion of the building as a landmark was also filed.

Under the D.C. Act, the mere act of applying for designation automatically requires that the property be treated as a landmark pending the resolution of the application. Additionally, the D.C. Act stipulates owners of a property designated as an historic landmark must show that any proposed change to the landmark building is “necessary in the public interest or that failure to effect the alteration would result in unreasonable economic hardship to the owner.”

Thus, two days after the application for interior designation was filed, when Weinberg, the owner of the Werner Building applied with the Department of Licenses for an application for a permit to alter a portion of the exterior, he had to prove “unreasonable economic hardship” in order to commence his work, as the building was considered as having landmark status while the application was pending approval.

Weinberg brought suit against the then Mayor of the District of Columbia Marion Barry, claiming that the D. C. Preservation Act was unconstitutional and violated Fifth Amendment rights protecting against takings without just compensation. Weinberg

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64 District of Columbia Code § 5-1001(a).
65 District of Columbia Code §§ 5-1004(e), 5-1005(f).
claimed that no designation of an interior could claim a valid public purpose unless the
government mandated public accessibility to the space. If public access were required,
designation of the space would serve a legitimate public interest but would result in an
invasion of private property, which in turn represented a takings.

Like Penn Central, in Weinberg v. Barry, the court ultimately rejected the claim that
landmark designation is a taking. In the opinion issued, the court said that the five
articulated purposes of the D. C. Act, namely the “cultural, social, economic, political, and
architectural” purposes, are public benefits other than visual enjoyment and serve to attract
visitors and enhance the economy. As such, the courts ruled that mandating the opening of
the building to the public is not necessary, as the plaintiff argued would be required of him,
to serve the public under the D.C. Act. Privately held buildings, the court stated, are
frequently open for public use, as is the case in restaurants, theatres, and hotels, without a
government directive to do so. Any private use that depends upon the public patronage, as
was the case for the Warner theatre, would allow the public to view and enjoy the interior
in fulfillment of the D.C. Act.

The Weinberg v. Barry case is significant in making the argument for interior
preservation because the issue of public access seems to be linked to the issue of
designation of publicly owned versus privately owned properties for many cities. In
Weinberg v. Barry, the court established precedence that continuous public access is not
considered essential for interior designation, paving the way for privately held buildings to
be subject to interior designations. Advocates of interior preservation may agree with the
opinion of author Johnathan Lloyd who claims that, “designating interiors to which the
public has no access more effectively ‘safeguard[s] the city’s cultural, social, economic,
political and architectural heritage,’ than designating those into which the touching, prying,
trampling *hoi polloi* regularly intrude."

*Teachers Insurance & Annuity Association of America v. City of New York, 1993.*

A second case relating to interior preservation is *Teachers Insurance & Annuity Association of America v. City of New York, 1993.* In 1959, the Four Seasons Restaurant opened in the newly built Seagram Building on Park Avenue in New York City. Designed by renowned German architect Ludwig Mies van der Rohe, the Seagram building is the only work of van der Rohe in New York City. American architect Phillip Johnson, who assisted van der Rohe with the building, is responsible for the design of the Four Season's interior. The building is highly regarded as a quintessential example of Modern Style and both the building's interior and exterior are reflective of the building's modular design and architectural innovation.

In 1980, Teachers Insurance and Annuity Association of America (TIAA) purchased the building from Joseph E. Seagram & Sons. As part of the purchase agreement, the areas of the ground and first floors that the Four Seasons Restaurant occupied were subject to a 25-year lease that was set to expire in 1999. TIAA agreed to use its best efforts to continue to lease the space for restaurant use, if not, Seagram has an option until 2025 to find a suitable restaurant tenant. As part of the purchase agreement, TIAA also agreed to nominate the building for landmark status when it became eligible and did so in December of 1987. Proposed for designation was the building itself, as well as the building's lobby and outdoor plaza. Unknown to TIAA, the operators of the Four Seasons restaurant proposed directly to the New York Landmarks Commission that the restaurant interior also be considered for landmark status. In October 1989, the Commission approved the designation of the building, the building lobby, the outdoor plaza and the Four Seasons

interior. Of the distinctive design, architectural features, innovative use of new
technologies, and the integral relationship to the building itself, the Commission noted that
the restaurant interior "has a special character, special historical and aesthetic interest and
value as part of the development, heritage and cultural characteristics of New York City."67
Designation of the restaurant includes affording landmark status to the entrance lobby, Grill
Room, Pool Room and balcony dining rooms, and includes the marble pool, walnut bar, wall
surfaces, floor surfaces, ceiling surfaces, doors, railings, metal draperies and two hanging
metal sculptures commissioned by Johnson from the artist.68

TIAA brought suit against the City of New York, challenging the restaurant’s
designation as an unconstitutional taking and impairment of free expression. They argued
the Commission had "exceeded its authority under the New York City Landmarks Law in
that the requisite public openness is lacking; the designation impermissibly restricts future
use of the space; and even if valid, the designation improperly includes certain interior
furnishings."69 Decided in 1993, the New York Appeals Court rejected TIAA’s claims and
upheld the designation of the Four Seasons Restaurant.70

Three outcomes of this case are significant for interior preservation. First, the
court’s initial venture was to determine whether the New York City Landmark Commission
had explicit authority to designate interior landmarks. The court found that indeed, the
Landmark law overtly authorizes interior landmarks, as the Landmarks Commission is
charged with promoting the “use of historic districts, landmarks, interior landmarks and
scenic landmarks for the education, pleasure and welfare of the people of the city.”71 The

67 “In the matter of Teachers Insurance and Annuity Association of America,” Cornell Law Review,
68 Ibid.
69 Ibid.
70 Ibid.
71 NYC Administrative Code §25-301 (b).
case demonstrates that having a city ordinance that without question allows for interior designations is absolutely essential for any community considering interior landmarking, for without such undisputable language, no such power to designate interiors can be upheld in a court of law.

The second notable outcome of the case is that the court determined that future use does not preclude designation. The plaintiff argued that an interior designation would require the restaurant to always be a restaurant and render the space unusable for any other purpose, citing the designation of the walnut bar and marble pool, and therefore rule out any future use that was not a public use. As Johnathan Lloyd so aptly stated, the “court recognized that this reasoning taken to its logical conclusion leads to the absurd result that any interior that might possibly be converted to a private use in the future can never be a landmark.” The court’s decision to not consider possible future use as reasoning against designation is important as it considers the interior in its current state and value. Whether ownership of the interior could possibly be altered someday is not sufficient clause to prevent designation.

The third outcome upholds the Commission’s decision to designate interior features that contribute to the significance of the interior. The plaintiff argued that “the items appurtenant to the interior of the restaurant cannot properly be included in the designation,” such as the wall surfaces, draperies, and the two metal hanging sculptures. The court however, stated that the language of New York’s preservation ordinance “unambiguously states that interior architectural features are composed of the ‘architectural style, design, general arrangement and components of an interior’ and that

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72 “In the matter of Teachers Insurance.” Cornell Law Review.
74 “In the matter of Teachers Insurance.” Cornell Law Review.
including such features was acceptable application of the law. The court determined that:

...the Commission has drawn a rational distinction between items integral to the design of the interior space, and items that merely enhance the restaurant's ambiance. We conclude that the Commission's interpretation is not unreasonable and thus that the Commission did not exceed its authority by including the designated items. Moreover, we agree with the Appellate Division that the Commission's decision to include the designated items is supported by the record and not arbitrary or capricious and thus was within the proper exercise of the Commission's discretion.

The outcome of the Teachers Insurance & Annuity Association of America v. City of New York case also serves to reiterate a decision determined in the 1986 case of Weinberg v. Barry, namely that an interior that customarily invites the public to enter, regardless of public or private ownership, is eligible for designation. In the TIAA case, the court determined that "if an interior use by its very nature...beckons and invites the general public to enter, then it qualifies for designation."

While the first two court cases regarding designations of interiors have showcased court decisions that have had preservation victories as the outcome, the following two cases demonstrate the limitations of interior designations.

**Sameric Corporation of Chestnut Street Inc., v. City of Philadelphia, 1993**

The case of Sameric Corporation of Chestnut Street Inc., v. City of Philadelphia, 1993, involves the historic Boyd Theatre, owned by Sameric Corporation. Considered the most elegant theatre on Chestnut Street, the premier shopping street in Philadelphia, the Boyd Theatre is a masterpiece of Art Deco design and is the only Art Deco movie theatre in the city. Designed by the firm of Hoffman-Henon, the rich interior featured luxurious ornamentation, spectacular chandeliers, a large mural by renowned artist Alfred Tulk, and

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75 "In the matter of Teachers Insurance," Cornell Law Review.
76 Ibid.
77 Handler, "Another Glimpse at Interiors," 20.
black and gold artwork that celebrate the progress of women throughout history. The theatre itself has a seating capacity of 2,500.\(^78\) The Boyd Theatre is widely considered to be a cultural and social landmark within Philadelphia.

Philadelphia’s Historical Commission sought and approved historic designation of the Theatre in 1993; this included both the exterior and interior. Upon learning of the designation, Sameric filed action against the City of Philadelphia, saying that the City violated Sameric’s federal and state constitutional rights by improperly designating the Boyd Theatre as historic. The designation of the theatre subsequently resulted in the denial of Sameric’s permit request to demolish the building. Since the theatre was historically designated, Sameric asserted that its business was injured and the property was reduced in value. The company claimed that they could no long afford to obtain quality films to show and were forced to sell their entire holdings for far less than fair market value.\(^79\)

Initially, a Federal District Court upheld the historic designation of the theatre by concluding that if a building can be landmarked, than its interior can be as well, since “it would seem that a building has an interior as well as an exterior.”\(^80\) Upon appeal by Sameric, the Pennsylvania Commonwealth Court again upheld the exterior and interior designation of the Boyd, recognizing the “significance of the theatre’s interior as a rare and intact architectural and historic” masterpiece, and the work of a prominent Philadelphia architectural firm. The designation was also upheld based on Philadelphia’s preservation ordinance’s definition of a *building*, which reads “a structure, its site and appurtenances, created to shelter any form of human activity.” The court reasoned that for any building to


satisfy its ability to *shelter* human activity, it most certainly requires an interior.\textsuperscript{81}

When Sameric challenged this ruling before the Pennsylvania Supreme Court, the court overturned the historic designation despite recognizing the architectural significance of the interior, based on a strict reading of Philadelphia’s Preservation Ordinance. The ordinance did not specifically address the Commissions ability to designate interiors and as such found in favor of Sameric. The court declared that an administrative commission’s ability to exercise power must be conferred by clear and unmistakable language. Since the Commission's ability to designate interiors was not explicitly mentioned in the preservation ordinance, the court declared the Commission had exceeded its statutory authority.\textsuperscript{82}

The outcome of this case has direct implications for preservationists and preservation commissions throughout the county. The Pennsylvania Supreme Court made it very clear that unless express written consent to designate interiors as historic is written into the language of a preservation ordinance, a preservation commission's ability to do so cannot be upheld in a court of law. It is important to note that in this case and the other cases discussed that the courts have not struck down the intrinsic worth of interior designations as a whole, but rather, only declared interior designations unconstitutional when statutory authority expressly authorizing the ability to do so is lacking. As a result of this case, commissions throughout the nation have altered their preservation ordinances to specifically include the ability to designate interiors.


As this final interior preservation court case will highlight, the ability of local and state legislation to designate interiors as landmarks is relatively straightforward when it

\textsuperscript{81} Handler, “Another Glimpse at Interiors,” 18.
\textsuperscript{82} Ibid., 19.
comes to private and public spaces, but when dealing with a religious property, the strict separation of church and state presents considerable preservation challenges. The case of *Society of Jesus v. Boston Landmarks Commission* (409 Mass. 38, 564 N.E.2nd 571 (1990)) emphasizes that the designation of interiors of religious institutions comes into direct violation of First Amendment rights guaranteeing freedom of religion.

In this case, the Society of Jesus (The Jesuits) owned The Church of the Immaculate Conception in Boston whose exterior is an outstanding example of mid-nineteenth century Renaissance Revival architecture. The interior, likewise, is also one of the best ecclesiastic interiors in the country and has the added bonus of featuring a rare 1863 E. & G. G. Hook organ; based in Boston, E. & G. G. Hook was considered the premier organ builder in the United States.

In 1986, due to a declining population and a feeling that their church’s interior was dated, aging, and too large, the Jesuits decided to convert the building into office space, counseling rooms, and living quarters. The church did not seek a building permit prior to making plans and began destroying the interior at their will. In 1987, upon hearing of the destruction, preservation groups in Boston persuaded Boston Landmarks Commission to step in and temporarily grant landmark status to the church. In 1989, the Boston Landmarks Commission officially granted permanent landmark designation to the interior, in accordance with Section 4 of the Boston Landmark enabling legislation that allows for the designation of interiors.

Bringing suit against the Boston Landmarks Commission, the Jesuits challenged the interior designation of their church on federal and state constitutional grounds, saying that designation violated their constitutional guarantee of freedom of religion and free exercise
clause. The case found its way to the Massachusetts Supreme Court where the final ruling was issued in favor of the Jesuits.

The Massachusetts Supreme Court upheld the Trial Court’s opinion that the practice of religion could only be regulated in the face of a “compelling” state interest. The court determined that the state’s interest in historic preservation was not a sufficient level of “compelling” interest, as only grave abuses of religious practice that impeded the public peace or religious worship of others warrant impingement of the right of free exercise.\(^{83}\) Citing the state constitution, the Massachusetts Supreme Court struck down the interior designation of the Jesuit church because the “configuration of the church interior is so freighted with religious meaning that it must be considered part and parcel of the Jesuit religious worship.”\(^{84}\) “In short,” the Court concluded, “under our hierarchy of constitutional values we must accept the possible loss of historically significant elements of the interior of this church as the price of safeguarding the right of religious freedom.”\(^{85}\) While *Society of Jesus v. Boston Landmarks Commission* may have resulted in the loss of a significant interior, the case demonstrates the difficulties in designating religious interiors as historic because courts, unwilling to challenge the guaranteed right of religious freedom rigidly uphold the strict separation of church and state in court.

**Summary of Legal Precedence**

The importance of understanding case law and its applicability to interior preservation is not to be underestimated. The four interior preservation cases discussed establish a legal precedent for and against the protection of interiors. Understanding the


\(^{85}\) Ibid.
decisions and outcomes these cases have on preservation is essential for successful interior
designations throughout the nation. Specifically, five major lessons are found within these
cases. The first is that commissions wishing to designate interiors as historic must have an
ordinance that explicitly allows them to do so, as the outcome of *Sameric Corporation of
Chestnut Street Inc., v. City of Philadelphia* painfully illustrates. Secondly, as shown in
*Weinberg v. Barry*, the designation of an interior space as a landmark does not coincide with
a government directive to open the space to the public. Privately held spaces are often open
to the public without such mandate, satisfying public accessibility to the space. Third, an
interior is a space where the public is customarily invited, regardless of public or private
ownership, and there are no limitations of the type of use that can be designated as an
interior. Fourth, future use does not preclude designation; just because a space may one
day be a private space does not mean that the space cannot now be designated as an
interior. And finally, interior designation of religious spaces walks a fine-line between
infringement on Fifth Amendment freedom of religion rights and the safeguarding of
notable spaces for public enjoyment. In such cases, the courts err on the side of caution to
uphold the strict separation of church and state, as evidenced by the decision in *Society of
Jesus v. Boston Landmarks Commission*. 
Federal, state, and local governments have taken an active role in safeguarding the cultural and historic values of our nation’s history through the passage of a national preservation policy, the creation of state enabling legislation, and through local preservation ordinances. This active government involvement, pared with the precedents established by our nations’ legal system allowing the designation of historic interiors, has resulted in the designation and preservation of hundreds of interiors throughout the nation. The application of these laws, policies, and legal precedence are shown in two unique case studies: Union Station in Indianapolis, Indiana, and the Forum Cafeteria in Minneapolis, Minnesota.

Both Union Station and the Forum Cafeteria demonstrate the ability of state legislation and local ordinances to safeguard treasured interiors, yet the circumstances surrounding each case represents vastly different approaches and philosophies of designating interiors. Union Station is a lesson in the ease and effectiveness of interior designations when the building owner is a willing preservation partner, while Minneapolis’ Forum Cafeteria brings to the forefront difficult philosophical issues of preservation when interiors must be evaluated separately from their exteriors. The lessons presented in both situations make obvious the importance of local governments in protecting valued interior spaces.
**Union Station, Indianapolis, Indiana**

Union Station in Indianapolis, Indiana, is a prominent historic resource noted as a stunning example of the Richardsonian Romanesque architectural style. Though today's Union Station is actually the second building built on the site, Indianapolis claims the distinction of having the first “union” station in the nation that brought competing railroad lines together in one terminal. From 1888 when the present terminal was built to the 1970s when the station closed, Union Station helped foster the development of the City of Indianapolis, transforming the city from a small town to the largest city in the state. When the railroad industry in America declined, so too did Union Station. Thankfully, in the late 1970s, foresighted community leaders sought to not only preserve the structure itself, but the grand historic interior as well by designating both the exterior and interior as historic landmarks. Though today Union Station serves primarily as an event center, the Station effectively demonstrates how important interior designations are in protecting our built heritage, and how smoothly the practice of designating interiors can be.

Indianapolis is known as the “Crossroads of America” for good reason: its central location gives the city convenient access to destinations nationwide through its network of major interstates that crisscross the city. It was long before the prominence of the automobile that the foundation for Indianapolis’ nickname was laid however; its origin is found in the arrival of the railroad.

The first railroad to reach Indianapolis was the Madison and Indianapolis Railroad that began service in 1847. Competing railroads arrived soon after and each railroad built its own station throughout the city. This forced travelers connecting from one line to another to race across the city to board their train, and presented problems when transferring freight from one line to another. This type of situation was common through
the nation. In 1850, foresighted community leaders in Indianapolis sought to alleviate this problem by building one station and requiring all railroads to use this central location. By 1853 a large brick train shed that connected the various railroads to one “Union Station” was in operation. Designed by Captain Thomas A. Morris and Joseph Curzon, it was the first station of its kind in the United States and other cities soon followed suit.86

Indianapolis experienced a period of rapid trade growth and population increase in the middle to late nineteenth century that soon rendered Union Station inadequate in accommodating the amount of train traffic passing through each day.87 In 1883, the Union Railway Company was formed for the express purpose of building a new station and noted Pittsburg architect Thomas Rodd was hired to design the station. When it opened in 1888, the new three-story station was the embodiment of the Richardsonian Romanesque architectural style, noted for its “skillful combination of brick and granite.”88 Inside, the main waiting room featured an immense barrel-vaulted ceiling with two large stained-glass wheel windows on the north and south ends. An open train shed was built adjacent and to the south of the station, and a new public square was created at the main entrance to the north.89 The building’s massive clock tower, slate roof, and bartizans at the corners complete the medieval character of the head house.90

88 “Historic Preservation Area Plan: Indianapolis Union Railway Station.”
Indianapolis’ economic growth continued throughout the 1890s and into the twentieth century. “By bringing the railroads and the people together, Union Station became an important center of commerce and transportation. And as such, drew its vitality and derived its growth from the people it served.”91 This growth spurred a renovation of Union Station in 1913-1914 by the Indianapolis firm of D. A. Bohlen and Son. A prominent architect known for his design of City Market in Indianapolis, D. A. Bohlen added lighting to the balcony level to highlight the frescoes and sculptural details at night, and designed a canopy over the north entrance to provide shelter from the weather. Bohlen also designed

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91 “Bound for Glory,” Union Station Indianapolis Gala Preview Brochure, 25 April 1986. Union Station Newspaper Articles Folder, Indianapolis Historic Preservation Commission, Indianapolis, Marion County, Indianan.
an “immigrants waiting room” in the basement of the station to facilitate the process of foreign-born immigrants arriving in the city.92

In 1915, the Station embarked on another ambitious remodeling program to build elevated train tracks in the location of the 1888 at-grade tracks, to make it easier for passengers to access the trains.93 By elevating the tracks overhead, passengers could safely cross underneath the tracks and access the platform by six stairways. The elevation of the tracks was complete in 1918, and by 1922 a new shed above the tracks and concourse beneath the platform had been constructed by the architectural firm of Price and McLanahan of Philadelphia. The concourse and shed are Art Nouveau in style, featuring polychromatic, terra-cotta organic reliefs on both the interior concourse and the structure’s exterior. The shed is largely regarded as one of the finest and last remaining example of Art Nouveau style architecture found in Indianapolis.94

The Great Depression and the 1930s spelled the beginning of the end of railroad prominence in the United States. Though a slight rebound occurred during World War II to support the military, passenger train usage never again returned to 1920s levels. Personal automobile ownership was and still remains a large factor. By the 1960s, the once powerful railroad companies were going broke and ending service. The federal government backed the consolidated Amtrak system, but only a few trains passed through Indianapolis each day.95

92 “Historic Preservation Area Plan: Indianapolis Union Railway Station.”
93 “Union Station: Once-bustling railroad station is one of Indianapolis’ most cherished landmarks,” Indianapolis Star. 25 April 2011.
94 “Historic Preservation Area Plan: Indianapolis Union Railway Station.”
95 “Once-bustling railroad,” Indianapolis Star.
With the decline of the railroad came the decline of Union Station. No longer the busy transportation hub servicing thousands of passengers daily, the Station eventually closed and was almost bulldozed for a parking lot. In 1974, the State Historic Preservation Office listed Union Station on the National Register of Historic Places for its Richardsonian Romanesque architectural style, significance as the nation’s first “union” station, and role in facilitating the growth and economic development of the City of Indianapolis. The interior, which is dominated by the barrel-vaulted ceiling, was noted as “one of the finest large scale public spaces in Indianapolis.”\textsuperscript{96}

\textsuperscript{96} David Hermansen and Eric Gilbertson, "Indianapolis Union Railroad Station National Register Nomination," \textit{National Park Service}, 8 July 1974.
In 1979, the Indianapolis Historic Preservation Commission (IHPC) locally designated Union Station, including its interior. The designation reads: “The subject structure, its significant exterior and interior features, the significant features of the site, and the historic and architectural character thereof shall be preserved as a significant resources of Indianapolis and Marion County.” The reasons for this interior designation are not entirely obvious as the designation was a proactive approach, rather than a reactionary designation. The State of Indiana had recently passed state enabling legislation that gave power to the IHPC to designate interiors. When Union Station was considered for designation, it was given an interior designation as well as an exterior designation predominantly because the Commission could. The property was owned by the City of Indianapolis who was a willing owner in the interior designation, thus the usually contentious issues of owner consent as well as public accessibility were nonissues. Additionally, by designating the interior, the City sought to ensure that any restoration work they did to the outside of the building would not be negated by an inappropriate interior renovation; the interior and exterior would continue to have a symbiotic relationship with the structure’s architectural style and historic significance. This shows exemplary foresightedness by the City of Indianapolis, who recognized that Union Station was critical component to a planned redevelopment of a large area bordering the Station and that inappropriate changes to the building would harm one of the City’s greatest architectural assets. Union Station’s interior designation is a prime example of how a well-written preservation ordinance that allows for interior designations can be used to successfully and proactively designate an interior.

After the City of Indianapolis acquired the building, they began a search for a developer to restore and develop the interior of the building. The search lasted two years

97 “Historic Preservation Area Plan: Indianapolis Union Railway Station.”
until Robert and Sandra Borns of Borns Management Company proposed a plan for creating a one million square foot “festival marketplace,” mixed-use facility in joint development with General Motels Corporation.98 In 1986, after a four-year, $5.8 million rehabilitation and renovation of the interior of the property by Borns Management Company and an exterior restoration by the City of Indianapolis, Union Station reopened with much fanfare and excitement by preservationists and city leaders alike. Preservationists celebrated that not only was a “great piece of architecture being preserved but a structure that had such an intimate relation with the city’s growth”99 was being once again being returned to prominence within Indianapolis. The City commemorated the event as an instrumental component of a handful of development efforts over the past five years that was helping revive a downtown core that had fallen on hard times.100

As part of the rehabilitation of Union Station, the main waiting room was restored to its original design intended by Thomas Rodd in 1888. The interior designation of the Station and the subsequent review of any changes to the space were critical in ensuring that all character-defining features of the room were retained. For example, retaining the soaring spatial volume of the waiting room was essential, and as such, the shops and offices created in the renovation were tucked into the existing rooms on either side of the waiting room. The terrazzo flooring and the grand stained glass rose windows at either end of the hall were restored as well. The terra-cotta columns that are each topped by a differently designed capital, with the decorations on the capitals repeated in relief panels on the walls and arches, were returned to their original glory.101 The paint colors in the waiting room – oranges, browns, burgundies and creams, pinks, greens, and golds – are sensitive to historic

99 Rob Schneider, “Plan waited out oil crisis, political debates,” The Indianapolis Star, 20 April 1986, 10K.
100 Schneider, “Plan waited out oil crisis,” K-10.
colors, but are not the exact colors used historically. The Indianapolis Heritage Preservation Commission allowed this changed because paint is viewed as easily changeable and little work would be required to return it to the historically appropriate color scheme. Marion Garmel proclaimed in The Indianapolis News, "The barrel-vaulted ceiling sparkles like studded leather with its five-paneled stained glass skylight soaring 70 above the terrazzo floor."\textsuperscript{102}

![Figure 3: Rose Window, Union Station, Indianapolis, Indiana. Photo by Kelli Andre Kellerhals, 2012.](image)

While the rehabilitation of the waiting room was predominantly preservation-related work to return the room to its original appearance, the reuse of the train was an exercise in creativity. With its massive size, open plan, and exposed steel structure, the train shed presented a challenge for reuse options and it was here that preservation and

\textsuperscript{102} Garmel, Don’t Judge Union Station, F-9.
imagination combined to create a truly unique outcome. The train shed was divided into two halves. The eastern section that spanned towards Meridian Street was left open and housed the new “festival marketplace.” The marketplace featured over thirty fast food vendors serving lunch and dinner daily. The western section of the shed was walled off from the eastern portion and was converted into a hotel. In compliance with the Secretary of Interiors Standards that requires interior features to be retained, the hotel rooms are neatly stacked within the framework of the train shed. The structure of the shed remains exposed so as to interpret the openness and expanse of the shed; the hotel rooms do not interfere with this interpretation. Additionally, 18 Pullman railroad cars were restored and installed in the shed as hotel guest rooms, with each room decorated after period personalities.

The festival marketplace was in operation for nearly a decade, however, the ultimate demise of Union Station was the 1995 opening of Indianapolis’ downtown Circle Center Mall. Today, Union Station sits largely empty, though the hotel remains in operation and the waiting room is available for wedding and event rentals.

While the circumstances surrounding Union Station’s local interior designation are somewhat unremarkable in that no legal battles or massive opposition arose to the designation, the effect the designation has had in protecting the historic interior of the station is an important lesson. Since the interior is designated, any changes to the interior are under the jurisdiction of the IHPC and must be reviewed for historic accuracy and minimum impact on the interior’s significance. The value of this required review became increasingly important five years after the completion of the 1986 rehabilitation.

In 1986, Borns Management Company used the Federal Rehabilitation Investment Tax Credit (FRITC) to help finance the project. Projects using tax credits are required to
comply with the Secretary of the Interior's Standards and thus any character-defining features of the interior and exterior must be retained. In this manner, during rehabilitation and the five years after the project’s completion, representing the required tax credit recapture period, the Secretary’s Standards directly protects and monitors any changes made to the interior. Once the five-year recapture period has expired, changes to the property no longer need National Park Service approval, provided tax credits are not being used to fund the changes. As such, the burden of approving interior changes now becomes the sole responsibility of the IHPC. If an interior designation had not been applied to Union Station, any changes to the interior made after 1991 would not require prior approval. In this situation, the interior designation is most valuable once the overarching control of the Secretary of the Interiors Standards has expired. If the 1986 interior rehabilitation had not used FRITC, then IHPC’s jurisdiction over the interior would have been immediate. This is not to belittle IHPC’s involvement in the interior changes during the project and during the recapture period, indeed they played a significant role in preserving the historic character of Union Station’s interior spaces. However, this situation demonstrates that local interior designations play their most prominent role once the limited federal role has expired and once again highlights that local level control is the strongest protection for historic interiors.103

Union Station also effectively demonstrates how smoothly the process of designating an interior can be. When willing partners work in tandem to preserve our historic places, the outcomes ensure the preservation of our built heritage. In the City of Indianapolis the IHPC had a willing partner that was receptive and encouraging of an interior designation.

103 David Kroll, interview by Kelli Andre Kellerhals, 15 February 2012.
Drawing on lessons learned in the four seminal interior designation court cases, IHPC had the benefit of having the legal backing of a strongly written state enabling legislation and local preservation ordinance clearly specifying the Commissions ability to designation interiors. Because the City of Indianapolis owned Union Station and supported the interior designation, usually contentious issues such as public accessibility and infringement of private property rights that result in designations being challenged in court were negated.

Indianapolis’ Union Station is a lesson in how to successfully designate interiors in favorable preservation climates. In contrast, the following case study from Minneapolis, Minnesota highlights the significant challenges that can accompany interior designations.

**Forum Cafeteria, Minneapolis, Minnesota**

The Forum Cafeteria Company of Kansas City, Missouri was a nationwide cafeteria-style restaurant chain that began operation in 1918. As a precursor to fast-food restaurants, the Forum restaurants specialized in home-style cooking with specials such as chicken pot pie, chicken fried steak, ham and beans, and desserts like raisin pie and strawberry shortcake. Several major cities had Forum Cafeterias in their downtowns and Minneapolis, Minnesota, was no exception. From 1930 to 1975, the Forum Cafeteria flourished in Minneapolis, becoming a cultural icon in the city.

Minneapolis’ Forum is an Art Deco masterpiece that embodies the architectural style and ambiance of the 1930s; art historians claim it rivals the Chrysler Building in architectural significance. When the future of the Forum was threatened by “progress” and wholesale redevelopment of its site, Minneapolis’ Heritage Preservation Commission applied a local preservation designation to its interior to help protect the importance of the
space. Today, the Forum remains in Minneapolis, but its unique and storied history highlights the challenges and ultimate success and importance local interior designations play in preserving our architectural history.

In 1911, a busy livery stable on 7th Street in downtown Minneapolis was demolished to make way for the construction of the Saxe Theatre. The theatre’s elaborate ivory terra cotta façade quickly became one of the most distinctive exteriors in the city. From 1914 to 1929, the theatre was a motion picture house. Then, in 1929, the Forum Cafeteria Company of Kansas City, Missouri, purchased the theatre with the intent of converting it into a restaurant. Employing architect George B. Franklin, the company spent over $275,000 creating a dining room and state-of-the-art kitchen in the theatre, and adding additional seating on a new mezzanine level. The Forum Cafeteria opened on May 27, 1930.

The Forum Cafeteria flourished in Minneapolis despite its beginnings in a rather dreary nationwide economic crisis. According to Minneapolis preservationist Trilby Busch

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Christensen, “people came from all over the state to meet and eat there. All were welcome – children and adults, farmers and clerks, lawyers and shopkeepers. Thousands of Minnesotans remember the Forum as the place they went on those special visits to Minneapolis on a shopping expedition.”

As endearing as the Forum was for its social prominence, it was the interior of the dining hall that captivated the hearts of its patrons. Flamboyantly Art Deco in style, the Forum embodied the architectural style:

The main, street-level eating area featured Vitrolite walls etched with a zig-zag design, glass tiled surfaces in hues of green, gray, blue, and white, mirrors covered etchings of forest and lake scenes, and frosted glass chandeliers shaped to resemble pine trees. Fixtures and rails glowed with chromium and onyx. A pair of gorgeous Art Deco lamps marked the start of a stairway that led to a balcony. This elevated seating area included striking examples of Art Deco grillwork – depicting a spider’s web surrounding flowers – that covered ventilation shafts. All of the food preparation equipment was built from glass and shining stainless steel.

The 1975 interior designation nomination by the Minneapolis Heritage Preservation Commission pays particular attention to the detailing and surface decoration in the interior, stating, “the cafeteria is virtually a cavern of light passed through the mirrored walls and over the shiny chrome rails and glassy tiles. The wall mirrors are incised with three parallel lines reminiscent of the streamlining found on autos of the time. The lines bend to form geometric patterns, particularly noticeable in the balcony railings.”

Herbert Scherer, an art librarian at the University of Minnesota, called the Forum a “masterpiece of the style, the best example left in Minnesota.” Others agreed. Mary C. Means, a regional director of the National Trust in Historic Preservation in the 1970s, is quoted as saying “Its one of the most outstanding Art Décor interiors I’ve ever seen.

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Everything is complete. It made me feel I was in the 1920s and there would be Busby Berkeley chorus girls having breakfast after the show.”

Despite being revered by the citizens of Minneapolis, in August 1975, the Forum Cafeteria closed, leaving the future of the renowned space in limbo. By June of 1976, the space had reopened as Scotties on Seventh, a 1930s style restaurant and nightclub owned by Ron Tengwell, Scott Smith, and Brett Smith, of SST Corporation. In the conversion to Scotties, the famed Art Deco interior of the Forum was retained. Upon its reopening as Scotties, preservationists celebrated the local interior landmark designation by the City of Minneapolis in late 1975 that recognized the historic significance of the interior as a masterpiece of Art Deco design. Local designation was made possible because Minneapolis’ local ordinance specifically grants authority to the Minneapolis Heritage Preservation

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Commission to designate “any property, or any interior of a building” as a local landmark.”¹¹⁰ Preservationists also celebrated that the property, both its interior and exterior, was listed in the National Register of Historic Places in March 1976.

Scotties on Seventh operated for just three years. By 1979, the City of Minneapolis was fully engaged in a huge redevelopment project called City Center that called for complete development of an entire city block; Scotties on Seventh sat directly in the middle of the proposed project. On October 18, 1978, SST brought suit against the City of Minneapolis and City Center's developer Oxford Properties US, Ltd. for a court injunction against the demolition of Scotties. Among many reasons, SST claimed that Scotties was a valuable historic resource that was protected under the Minnesota Environmental Rights Act (MERA) and that a “feasible and prudent alternative” to demolition of a historic resource, as required by MERA, must be sought.¹¹¹ Unlike the four court cases discussed in the previous chapter that featured property owners fighting against local interior designations, the Forum’s lawsuit featured a property owner who embraced the property’s interior designation and sought to use the designation to save the Forum from demolition.

Initially, a tentative settlement was offered in January 1979 in which Oxford Properties would save the interior of Scotties, but the exterior would be demolished. The settlement included three aspects: the first was that the City would pay $1.1 million for Scotties; the second that Oxford would pay for the documentation, dismantling, storage, and reassembling of the Forum to its 1929 appearance in a street level space in the new City Center project; and finally, that SST, Inc. was given a long-term lease to operate a restaurant/lounge in the space.¹¹²

¹¹⁰ Historic Preservation, Minneapolis Code of Ordinances, Title 23, Chapter 599.
¹¹¹ Environmental Rights, Minnesota Statute Chapter 116B.
When approached with the settlement, SST challenged, alleging that the "façade is an irreparable loss of the historical character of the Forum. Separating the interior and the exterior, they augured would reduce the historical significance of the interior and jeopardize the placement of the structure in the National Register." Several testified in support of SST's claim. Rose Marling, an art history professor at the University of Minnesota testified that "Art Deco is fundamentally urban... this is not an architecture for people in the suburbs huddled in their caves by night. Art Deco is intrinsically connected to the sidewalks at ground level. The historical flavor of the 30s was activity at street level – just as the flavor of the ’70s is movement through hallways. If Art Deco is placed in the womb of an urban mall then it loses much of its historical flavor." The value of the Forum, Marling argued, was in all of its elements working in unison to create a total effect. Herbert Scherer agreed, saying moving the Forum "would represent an inappropriate treatment of the interior and its value would definitely be impaired by relocation in a shopping center."

On May 15, 1979, the Trial Court issued a findings of fact concluding that the settlement was appropriate and acceptable. The court found that “only the interior of the building is a ‘resource’ within the meaning of MERA, that the removal and reinstallation of the art deco interior will not have material adverse impact on its architectural value so long as the requirements of the court’s order are complied with, and that settlement among the parties is reasonable and consistent with MERA." Oxford Properties hired Dayton’s Commercial Interiors to manage the dismantling of Scotties, and the Trial Court ordered weekly progress reports on its removal, and regular site inspections by the court and the Minneapolis Heritage Preservation Commissioners.

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113 SST, Inc. v. City of Minneapolis. 288 N.W.2d 225 (1979).
The Trial Court’s decision to allow the demolition of the exterior and removal of the interior was predicated on the facts of the case that were established prior to the settlement negotiations. Despite the building’s listing in the National Register and the fact the National Register registers entire structures, the prior agreed upon court facts agreed to by all parties state:

The record is undisputed that the interior of the building is more remarkable and historically significant than the exterior, which dates from 1913 but has been substantially altered over time. Though the exterior is one of the last remaining examples in the Twin Cities of a Beaux Arts movie theatre façade, the fact that it has been altered and is therefore only a fragment of the original leads the experts to conclude that it is not architecturally or historically outstanding.\textsuperscript{117}

Seeking a reversal of the Trial Court’s decision by SST, the case made its way to the Minnesota Supreme Court where a final decision was issued on December 7, 1979. To SST’s dismay, the Minnesota Supreme Court affirmed the Trial Court’s decision that the proposed settlement was fair, reasonable, and consistent with the public interest as expressed in MERA. The Supreme Court acknowledged that several experts had indicated preference for preserving the building in its entirety, but that when presented with the alternative of complete demolition, agreed that saving the interior alone was "reasonable in light of the fact that it was the interior of the building which possessed the greater historical significance."\textsuperscript{118} In summarizing the difficulty of this case, the Supreme Court concluded their Decision with the words of Russell Fridley, then State Historic Preservation Officer:

The Forum-Scotties building presents a case for historical preservation which is unusual. Generally speaking, historical buildings are significant because of both their exterior and interior. Federal and state programs, generally, however, give priority to preservation exteriors. The interiors of these buildings are frequently renovated and remodeled for commercial or office use. The compromise of the interior is generally permitted in order to save the exterior of the building. The Forum-Scotties building is at the other end of the preservation spectrum in that the primary significance of this building is the interior. The exterior is less

\textsuperscript{117} SST, Inc. v. City of Minneapolis.
\textsuperscript{118} Ibid.
architecturally and historically significant. Where the interior of the building is the architecturally and historically significant component, moving that interior can be an acceptable compromise as a last resort for historical preservation.119

In accordance with the court’s order, the interior of the Forum Cafeteria-turn-Scotties was systematically dismantled in 1979, stored, and reinstated inside the newly built City Center complex in 1983. Every etched mirror and all 4,571 pieces of Vitrolite glass were re-hung; all six of the two-ton black glass panel columns were re-erected.120 The original plaster ceiling was reinstalled and painted in its original 1930s colors. Every original element of the interior was carefully catalogued, stored, and re-hung in its proper place. Perhaps even more amazing then the tedious process that was required to unassembled and reassemble the space was that the new room’s “interior dimensions fell within 3/8th of an inch of the original: 105 feet long, 48 feet wide and 18 feet high.”121

The complicated history of the Forum Cafeteria extends well beyond its trials of the 1970s. Less than three years after reopening Scotties in City Center, the restaurant closed. It was brought back as the Paramount Café until 1989, then Mick’s for four year when the Paramount closed. In 1996, Goodfellow’s moved in and stayed until 2005. In 2010, local entrepreneurs purchased the space and launched a reincarnated version of the Forum Cafeteria to much praise and anticipation. The Minneapolis Heritage Preservation Commission even awarded the project with a local preservation award. The celebration was short-lived, however, as the new Forum closed less than a year later. Today, the interior remains closed and is seeking a tenant that will appreciate its exuberant Art Deco style and reopen the space for public enjoyment.

119 SST, Inc. v. City of Minneapolis.
121 Nelson, “Finding the Forum.”
Minneapolis’ Forum Cafeteria presents a unique challenge in the preservation of interiors that warrants discussion. Unlike Indianapolis’ Union Station whose interior is protected in situ, the Forum presents a difficult situation in which the value of an interior must be determined separate from its exterior. Most importantly, the Forum is a demonstrated lesson in the importance local preservation ordinances and historic preservation commissions play in protecting remarkable historic interiors.

Interiors and exteriors typically have a symbiotic relationship in that interiors are consistent with the style of the exterior and augment the perspective of the historical character and significance of the exterior. Without such a direct relationship “Disneyfication” can occur in which exteriors are preserved in their historic appearance but the interiors have lost all semblance of historic character and significance. This widely held conviction that interiors and exteriors are a whole gives rise to debates on whether interiors can exist without exteriors. In the case of the Forum, this debate was a valid concern in determining the Forum’s future. Though there is merit in arguing that the Forum never truly was one with its exterior as the Cafeteria had been created within the shell of a Spanish Renaissance theatre, albeit the exterior had been remodeled in Art Deco fashion, it cannot be argued that the Forum did not have any relationship with its exterior. “It may have been a bit quirky of a relationship, but the exterior gave the Forum a specific context in which to exist. The façade brought the Forum attention and gave it a human scale.”

Its location in City Center means the room has no prelude; it is anonymous from the outside.

Undoubtedly, some may still believe that the Forum should have been retained within the context of its exterior, however in this specific situation, the rational by the Minneapolis Heritage Preservation Commission and the Courts was that the importance of preserving this iconic space far outweighed the loss of the exterior that had undergone several alterations and no longer retained its historic significance. Throughout all if the Forum's troubles, it was always agreed upon that the interior of the cafeteria embodied the Art Deco style in its entirety and the Forum remained one of the last and best examples of the style in the Twin Cities and perhaps the nation. In some ways, it may have been rather serendipitous that the exterior was no longer considered integral to the interpretation and significance of the interior for it allowed the interior to be extracted from its exterior with little loss of historic integrity.

Despite the interior of the Forum being considered more valuable from the exterior, removing the Forum from its original context did not mean that no historic significance was lost. Historic significance was indeed lost; the framework in which the Forum existed was destroyed. Shortly after the Forum’s reinstatement in City Center it was removed from the National Register of Historic Places. The National Register records properties in their entirety thus detaching the interior from the exterior resulted in delisting despite the recognized significance of the space. However, it is important to note that even though the Forum lost National Register listing, it still finds significance with its local designation. The defining characteristics of the interior and the arguments that resulted in the listing of the space on the National Register initially are still valid. It is in situations like this that the importance of local designation is exemplified. Local designation can still serve to protect important spaces without their recognition by the National Register; local designation has more legal strength for protection because of the delegation of police powers to local
governments. Had the Forum not been subject to a local designation, it is very possible that the City Center project would have been the complete demise of the Forum.

In Minneapolis’ decision to locally designate and fight for the retention of the Forum’s interior, the City was successful in preserving an iconic place that epitomizes the feeling and style of the 1930s and captures the aesthetic of that particular era. Karal Ann Marling, a University of Minnesota art history professor who testified as an expert at the trial in support of the Forum, declared that the “‘living historical’ aspects of Scotties are remarkable. In this country, the Chrysler Building, Rockefeller Center and Scotties are the only places you can go and actually feel like what is must have been like to be alive back in the 1930s. You can walk into Scotties for lunch and feel like Joan Crawford.”

It is not just the appearance of the physical space that made the Forum significant, but also the entire atmosphere of the space. Marling again describes this sentiment most succinctly:

We’re not talking about the Mona Lisa or the pyramids of Egypt here, we’re talking about atmosphere. Art Deco really began to flourish in this country just as the Depression began, and its function was to give people an escape to a glamorous atmosphere not unlike that on an ocean liner. That interior invites you to tap your toes and interact with new and glamorous people. It all suggests a little sex, perhaps some violence, both of which are parts of the urban sensibility. It allows you the feeling that you are, just slightly, a dangerous person. We’re not talking about a great piece of art, we’re talking about a total effect that give us the feel of the glamour and danger of the 1930s.¹²⁵

Minneapolis’ Forum Cafeteria has had a long history that could have been cut short in the 1970s when "progress" threatened the property’s future. However, Minnesota’s state enabling legislation that does not prohibit interior designations and Minneapolis’ local ordinance that explicitly authorizes such designations were integral in saving the Forum from complete destruction. Though the space remains vacant today, the celebrated Art Deco architectural style and ambiance the Forum embodies has been retained. The Forum

¹²⁵ Ibid.
is a prime example of the unequivocal importance that local interior designations have in saving and protecting the architectural heritage of our communities and nation.

**Case Analyses Summary**

Indianapolis’ Union Station and Minneapolis’ Forum Cafeteria are two unique cases that offer insights into practical applications of interior designations. Union Station is a best-practices example while the Forum Cafeteria is lesson in the trials and tribulations of designation. The lessons learned in both examples serve as valuable tools for preservation commissions wishing to take an active role in interior designations in their community.

Both Union Station and the Forum Cafeteria were given interior designations by proactive heritage preservation commissions that recognized the value of these interiors in enriching the cultural heritage of their communities. Commissions wishing to engage in interior designations should actively seek designation for known remarkable interior spaces before those spaces become threatened by alteration or demolition. As Indianapolis highlights, some of the least challenging places to start with are publically owned properties that do not contend with issues of public access and private property rights.

These two case studies also highlight that education is a vital component in advancing the effective use of interior designations. In both Indianapolis and Minneapolis, the property owners were willing partners in the interior designations as they recognized the architectural and historic significance of their properties, as well as the value of their properties to the city as a whole. Commissions should promote the values of interior designations proactively to property owners, including highlighting any economic incentives that may be available, to stave off any future conflicts. Education is critical in creating a positive image of preservation. Critics of preservation see preservation as a
regulatory tool that restricts an owners control over their personal property. Education that disbands these false impressions is necessary to advance the use of interior designations.

Though Union Station highlights the relative ease in which interior designations can be applied, the Forum Cafeteria is a painful reminder that the practice of interior designation is not without significant challenges. In Minneapolis, the Heritage Preservation Commission and the court system had to make the tough decision to value parts of an historic building independently from one another, and as such, faced the loss of an important historic feature of the City's history. Preservation commissions wanting to engage in interior designations must recognize that sometimes-difficult decisions about historic significance and value must be made in order to save iconic interiors.

Finally, the role local preservation commissions play in protecting historic interiors is not to be underestimated. Because of their interior designations, any changes to Union Station and the Forum Cafeteria are subject to review by their respective historic preservation commissions. This review ensures that the architectural and character defining features that gave the interior its significance are protected from changes that would affect the importance of the interior. The ability of local commissions to regulate these designated interiors is most important in Indianapolis now that the recapture period of the tax credit project has expired and in Minneapolis where the protections of federal preservation tools are no longer applicable. Both case studies reiterate the unequivocal importance of the strength local preservation commissions and local interior designations play in preserving and protecting historic interiors.
Chapter Five
Conclusion

In the United States, historic preservation has evolved from its beginnings as a social movement driven by small groups of dedicated private citizens, like the women of the Mount Vernon Ladies Association, to a nationwide professional field that seeks to preserve and protect buildings, landscapes, neighborhoods, and other aspects of the built environment that have historic significance. Just as the field of preservation has progressed, so too has the scope of protections. Instead of focusing on exteriors alone, preservation has now recognized the need to preserve the architecturally significant interiors of historic buildings and residences. Preservation policies, organizations, and programs at federal, state, and local government levels support the preservation of interiors. Our nation’s legal system also supports interior preservation and designations through the precedence established in four seminal court cases. Fortified by these policies, communities nationwide are taking active roles in protecting the historic interiors in their communities as the real-life examples of the challenges and benefits of interior designations were highlighted in the case studies of Indianapolis’ Union Station and Minneapolis’ Forum Cafeteria. Therefore, this paper has demonstrated that the laws, policies, and standards that govern preservation ensure that historic interiors are subject to controls that promote their designation and preservation. The lessons learned in this analysis have practical applications and provide a framework for local preservation commissions to effectively create strong policies that supports interior designations in their communities.
The justification for interior preservation is found in an analysis of the federal, state, and local policies and organizations that directly oversee preservation activities in our nation. Federal preservation policy was set in 1966 with the passage of the National Preservation Act. Within this Act, the federal government established the National Register of Historic Places and the Secretary of the Interior’s Standards. Coupled with the Federal Rehabilitation Investment Tax Credit, these programs highlight that the federal government plays a critical role in influencing preservation activities, but does not prescribe specific actions to occur. Thus, while explicit mentions of interiors are rare in federal preservation programs, the government is receptive to all aspects of preservation, including the designation of interiors. Indeed, most of the federal government programs encourage interior preservation by requiring interior descriptions in National Register nominations, and forcing the retention of interior character defining features through the Secretary of the Interior’s Standards and the FRITC program. The federal government plays a central role in setting preservation standards and policies, however it is at the state level that these policies are enforced.

States play a stronger role in encouraging interior designations through the decentralization of federal preservation power to state historic preservation offices. Here, states play a critical preservation role by acting as a liaison and enforcer of national preservation policies within their state. In protecting and designating interiors, a state’s ability to pass historic preservation enabling legislation is a critical factor. In such legislation, states can authorize, not preclude, or outright deny interior designations at local levels of government. If state-enabling legislation does not allow interior designations, then interiors cannot be subject to controls by local governments.
As this investigation of government policies has revealed, it is at the local level that the strongest and most effective control of interiors is found. The police power designated to local governments by the state and federal governments allows local heritage preservation commission to directly exert control over historic interior to ensure their preservation. They do so through the passage of local preservation ordinances.

Preservation commissions wishing to protect the historic interiors in their community have a practical outline of what constitutes a strong, legally defendable local historic preservation ordinance from this study of government policies. First, the community’s state-enabling legislation should explicitly give authority to local commissions to designate interiors. This is the strongest justification for the ability of local commissions to designate interiors. State-enabling legislation that does not explicitly mention interiors but does not also preclude interior designation is permissible, provided it can be proved that court of law will interpret the legislation as permitting interior designations. If a state’s enabling legislation does not allow interior designations, or its language is unspecific, lobbying for amended wording would be a valid exercise for the State Historic Preservation Office and preservation commissions statewide. This road will undoubtedly be challenging, but the end result of state legislation that encourages interior designation would be well worth the time and effort expended.

Once state-enabling legislation authorizes interior designations by local historic preservation commissions, ensuring local ordinances provide for interior designation is the next critical step. Unlike state-enabling legislation that can be somewhat vague in mentioning interiors, local ordinances should leave no doubt as to the commission’s authority over interiors. Explicitly addressing interiors by name should be a component of the ordinance and is typically found in the definition section, such as in the definition of
“Historic Landmarks.” As an example of a strongly worded ordinance, Oak Park, Illinois’
definition of a “Historic Landmark” reads, “Any property and/or improvement which has
special character or significant historical, cultural, architectural, archeological, community
or aesthetic value as part of the heritage of the Village of Oak Park, the State of Illinois, or
the United States which has been designated as an Oak Park historic landmark pursuant to
this Article and shall include all designated interior historic landmarks.”126

In addition to including interiors as eligible for historic landmark status, Oak Park’s
preservation ordinance also includes definitions of “Interior Architectural Features” and
“Interior Historic Landmarks.” By including interiors in the definition of historic landmarks
and also defining interior architectural features and interior historic landmarks, Oak Park
has not only allowed for interior designations, but also clearly laid out what aspects of an
interior the preservation commission can designate. In Oak Park’s ordinance, Interior
Architectural Features is defined as, “The architectural character and general composition
of the interior of a structure, including the room design and configuration, color and texture
of materials, and the type, pattern and character of all architectural details and elements,
including, but not limited to, staircases, doors, hardware, moldings, trim, plaster work, light
fixtures and wall coverings.”127 While not every local ordinance will provide for interior
features to be designated, those that chose to designation interior features are highly
encouraged to include a list of what these features may be. The importance of doing so was
demonstrated in the Teachers Insurance & Annuity Association of America v. City of New York
case in which the owners fought the designation of the celebrated Four Season’s restaurant
and the designation of the interior features like the bar, wall and floor surfaces, doors,
railings, and draperies. New York’s court system upheld the designation of the interior

126 Historic Preservation, Chapter 7, Article 9 of the Village Code of Oak Park, Illinois, <http://www.oak-
park.us/planning/Historic_Preservation.html> (accessed 18 February 2012).
features precisely because New York’ ordinance provided for the designation of significant interior features and included a listing of what those features might be.

In Oak Park’s ordinance, “Interior Historic Landmarks” is defined as, “An interior, or part thereof, which is normally open or accessible to the public and which has a significant historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the Village, State of Illinois or United States and which has been designated as an interior landmark pursuant to the provisions of this Article.” The wording of Oak Park’s ordinance in this particular definition is important in two ways. First, the wording defines what constitutes an interior historic landmark, in this case it is an interior that has “significant historical or aesthetic interest or value as part of the development, heritage or cultural characteristics” of the city. Second, the definition explicitly states that any interior historic landmark is an interior that is “normally open or accessibly to the public.” The caveat of public accessibility and whether it is necessary before an interior designation is awarded is a distinction every successful preservation ordinance should make. Interior designations can be violations of Fifth Amendment private property rights and commissions must have a clearly defined ordinance that allows or does not allow for designation of non-public spaces. Oak Park chooses to only designate publically accessible spaces. Not all cities have chosen this route and those that designate interiors without a public accessibility clause do so successfully because their ordinance explicitly authorizes such designations and has clear provisions on how this should be done.

Public accessibility is only one of several stances a successful preservation ordinance should address. Owner consent is another. New York City’s court system allowed the designation of the Four Season’s restaurant because the City’s Landmark Ordinance did not require that the commission obtain owner consent to landmark the

building or interior. The ability to designate private interiors should also be laid out in the preservation ordinance, as should the commission’s ability to impose fines and enforce compliance with designation. While each preservation ordinance will vary in how it addresses public accessibility, owner consent, private interiors, and enforcement, the lesson learned in this thesis is not so much reading the verbiage commissions use, but in knowing and understanding why a successful ordinance must encompass and explicitly address these issues.

The process of amending or writing a local preservation ordinance that grants authority to regulate interiors should not be taken lightly. Tight language that clearly defines the commission’s abilities is essential to having a successful ordinance. Using Oak Park as an example, a local preservation commission will be able to evaluate their own ordinance for the effectiveness of protecting interiors in its current state, and understand what changes to the ordinance should be made to strengthen the protection of interiors in their communities.

Providing the framework for local preservation commissions to create strong preservation ordinances to facilitate interior designation is one practical benefit of this thesis. Another result of this thesis is to highlight a real and urgent need for education.

In all facets of interior preservation, education, or the lack thereof, presents a considerable challenge to ensuring historic interiors are preserved. Though designating properties as historic is a widely used tool practiced by every local preservation commission, a comparably few understand or are aware that they can apply the same designations specifically to interiors. A widespread advocacy campaign that raises awareness about the need to protect interiors separately from exteriors is a critical need. With this comes a heightened need to properly educate state preservation offices and local
preservation commissions on powers state and local governments possess in passing legislation and ordinances that facilitate the protection of interiors. Local preservation commissions need to understand that they themselves also play an essential role in preserving interiors. Education on the ways in which local preservation ordinances can be written to include specific verbiage about interiors is needed so commissions have the proper tools to designate and help protect the significant interiors in their communities. A current lack of knowledge is why so many communities do not designate interiors and thus often finds their historic interiors in jeopardy and in danger of alteration or demolition.

Individual property owners of historic properties also need to be subject to targeted education campaigns on the importance of maintaining the appearance and character of historically important interiors. People buy historic properties for a variety of reasons, be it they like the historic character of the property, the close proximity to a downtown core, or the (sometimes) affordable purchase price. When these people assume ownership of an historic property, they become stewards of history. Many such owners are not properly trained in architectural styles and significance and therefore may not have the knowledge to recognize the essential role their interior plays in maintaining the historic character of their property. A proactive approach to raising appreciation of interiors is necessary so that when a commission attempts to designate a specific interior, the property owners understand the value of the designation in preserving this piece of history. Along with this, preservation commissions need to fight a seemingly never-ending battle to raise awareness of what the implications of both interior and exterior preservation designations mean so that fewer cases find their way to the courtroom docket.

Thesis was never intended to include all topics and issues relating to the protection of historic interiors. Therefore, the possibilities for future study of this topic are substantial.
One of the most pressing topics is determining what methods of protection for interiors are most effective. This thesis has shown that protection for interiors is strongest at the local level, however interior protections can take the form of interior designations, covenants and easements. An analysis of these three methods, plus any additional ways discovered is needed to make sure that interiors are protected by the strongest means possible.

Additionally, study should be undertaken to determine what economic incentives are most conducive to encouraging interior preservation. Tax credits and grants-in-aid are a few methods currently used in both interior and exterior preservation, but the analysis of the effectiveness of these incentives specific to interiors is needed to promote the economic feasibility of preserving interiors.

This thesis has mentioned several times that there are difficult aspects of interior designations and these unique situations deserve analysis and creative solutions to propel interior preservation to the same prominence of exterior preservation. Specifically, answering philosophical questions like “can interiors exist without exteriors and still retain historic significance?” needs to be addressed. The HPC in Minneapolis appears to think so, as they allowed the designation of the Forum Cafeteria that no longer has an exterior, but the regulating body at the National Park Service disagrees. Not every preservation commission may agree with the determination by the Minneapolis HPC, but the Forum Cafeteria certainly is not an isolated case; situations such as this are becoming more common and preservation needs to have a response to make sure that our historic interiors are being properly valued.

Another challenging aspect that deserves more thorough study is the practicality and ability to designate residential interiors. While Fifth Amendment property rights typically prevent such designations, creative solutions to preserving the most valuable of
residential interiors may be discovered by undertaking a study in this topic. Designation of religious properties is yet another significant challenge in interior preservation that needs study. Clever strategies may exist that allow for the designation of active religious spaces that do not challenging the separation of church and state.

The preservation of Modernist architecture is a current hot topic in preservation and with these buildings comes interiors that are quite unlike interiors in more traditional historic structures. In such architecture, perhaps even more so than in traditional architecture, the interiors and exteriors of modernist structures are inextricably tied together. Theodore Prudon describes this relationship: “In modern buildings, the inside architecture and its appearance towards the outside was very much part of the overall and intended architectural expression.” As such, Prudon explains, “The preservation of the interior needs to be an integral part of the preservation of the building as a whole. Without their interiors, many examples of modern architecture become meaningless and possibly not worth preserving.” Many Modernist buildings are now approaching the 50-year benchmark for historic significance and the most pressing need is a survey of these properties. The survey will not only identify modern structures, but will assist in determining which structures are targets for interior and exterior preservation designations. This is a survey that needs to happen nationwide. Once such a survey has occurred, preservationists and local preservation commissions can proactively seek protections for these buildings before they are threatened with alteration or demolition. As Prudon once again explains, “Efforts to incorporate recognition of the importance of interior spaces in the early stages of the interpretation of modern architecture will not only help maintain its integrity, but also allow for more flexibility in the future reassessment of the

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The topic of interior preservation is a multifaceted aspect of historic preservation that in recent years has come to the forefront of preservation activities. Communities nationwide are actively seeking protections for their most valued interiors that enrich the built heritage of their city. This thesis has demonstrated that policies at federal, state, and local government levels seek to value and protect historic interiors. While federal policy has created national preservation standards, it is local preservation commissions that have the strongest ability to protect interiors. As such, local preservation commissions play an integral role in ensuring that worthy interiors receive the protections they deserve.

Interiors preservation is not without its challenges, however, it has been demonstrated time and again that a local preservation commission's ability to designate interiors can and will be upheld in courts of law, and legal precedence exists to support local interior designations. Therefore, though this analysis of the policies, organizations, and laws that influence interior preservation, is has been shown that historic interiors are subject to controls and laws that facilitate their preservation and designation.

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131 Prudon, Preservation of Modern Architecture, 21.
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“Union Station: Once-bustling railroad station is one of Indianapolis' most cherished landmarks.” *Indianapolis Star*. 25 April 2011.


APPENDICES
APPENDIX A

American Antiquities Act of 1906
16 USC 431-433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

Sec. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona-fied unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Sec. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which the may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulation as they may prescribe: Provided, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums.

Sec. 4. That the Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this Act.

Approved, June 8, 1906
APPENDIX B


Sec. 461. Declaration of national policy
It is declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. (Aug. 21, 1935, ch. 593, sec. 1, 49 Stat. 666.)

Sec. 462. Administration by Secretary of the Interior; powers and duties enumerated
The Secretary of the Interior (hereinafter in sections 461 to 467 of this title referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 461 of this title, shall have the following powers and perform the following duties and functions:
(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.
(b) Make a survey of historic and archaeologic sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.
(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.
(d) For the purpose of sections 461 to 467 of this title, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: Provided, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: Provided further, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.
(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: Provided, That no contract of cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.
(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.
(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.
(h) Operate and manage historic and archaeologic sites, buildings, and properties acquired under the provisions of sections 461 to 467 of this title together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the
public or to facilitate administration: Provided, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

463. National Park System Advisory Board
(a) Establishment; composition; duties
A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed sixteen persons, citizens of the United States who have a demonstrated commitment to the National Park System, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, anthropology, biology, geology, and related disciplines, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 461 to 467 of this title, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

(b) Termination
The National Park System Advisory Board shall continue to exist until January 1, 1995. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(c) National Park Service Advisory Council
There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

464. Cooperation with governmental and private agencies
(a) (FOOTNOTE 1) Authorization
(FOOTNOTE 1) Subsection designation ")a") supplied.
The Secretary, in administering sections 461 to 467 of this title, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

(b) Advisory committees
When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

(c) Employment of assistance
Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 461 to 467 of this title and for which money may be appropriated by Congress or made available by gifts for such purpose.

465. Jurisdiction of States in acquired lands
Nothing in sections 461 to 467 of this title shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under said sections.

466. Requirement for specific authorization
(a) In general
Except as provided in subsection (b) of this section, notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 462(e) or 462(f) of this title may be obligated or expended after October 30, 1992:
(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after October 30, 1992; or
(2) in excess of the amount prescribed by law enacted on or after October 30, 1992.
(b) Savings provision
Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.
(c) Authorization of appropriations
Except as provided by subsection (a) of this section, there is authorized to be appropriated for carrying out the purposes of sections 461 to 467 of this title such sums as the Congress may from time to time determine.

467. Conflict of laws
The provisions of sections 461 to 467 of this title shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.
APPENDIX C

National Historic Preservation Act of 1966
as amended through 1992
Public Law 102-575

(Due to space considerations, only the first two section of the National Preservation Act of 1966, which outlines the Federal Government's intent of the Act, have been included. Full text versions are available online)

Section 1 (16 U.S.C. 470)
(a) This Act may be cited as the "National Historic Preservation Act."
(b) The Congress finds and declares that-
(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of federal and federally assisted projects and will assist economic growth and development; and
(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Section 2 (16 U.S.C. 470-1)
It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to-
(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation’s historic built environment; and

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.
# APPENDIX D

National Register of Historic Places Nomination Form

## United States Department of the Interior
National Park Service

### National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in National Register Bulletin, *How to Complete the National Register of Historic Places Registration Form*. If any item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional certification comments, entries, and narrative items on continuation sheets if needed (NPS Form 10-900a).

### 1. Name of Property

- **historic name**
- **other names/site number**

### 2. Location

- **street & number**
- **city or town**
- **state code**
- **county code**
- **zip code**

### 3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this nomination/request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60.

In my opinion, the property ___ meets ___ does not meet the National Register Criteria. I recommend that this property be considered significant at the following level(s) of significance:

- __ national
- __ statewide
- __ local

- **Signature of certifying official/Title**
- **Date**

State or Federal agency/bureau or Tribal Government

In my opinion, the property ___ meets ___ does not meet the National Register criteria.

- **Signature of commenting official**
- **Date**

### 4. National Park Service Certification

I hereby certify that this property is:

- __ entered in the National Register
- __ determined eligible for the National Register
- __ determined not eligible for the National Register
- __ removed from the National Register
- __ other (explain): __________

- **Signature of the Keeper**
- **Date of Action**

---

*Page 1*
5. Classification

<table>
<thead>
<tr>
<th>Ownership of Property</th>
<th>Category of Property</th>
<th>Number of Resources within Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Check as many boxes as apply.)</td>
<td>(Check only one box.)</td>
<td>(Do not include previously listed resources in the count.)</td>
</tr>
<tr>
<td>□ private</td>
<td>□ building(s)</td>
<td>□ contributing buildings</td>
</tr>
<tr>
<td>□ public - Local</td>
<td>□ district</td>
<td>□ noncontributing sites</td>
</tr>
<tr>
<td>□ public - State</td>
<td>□ site</td>
<td>□ structures</td>
</tr>
<tr>
<td>□ public - Federal</td>
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<td>□ objects</td>
</tr>
<tr>
<td></td>
<td>□ object</td>
<td></td>
</tr>
</tbody>
</table>

Contributing Noncontributing

<table>
<thead>
<tr>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

Name of related multiple property listing
(Enter "N/A" if property is not part of a multiple property listing)

Name of contributing resources previously listed in the National Register

6. Function or Use

<table>
<thead>
<tr>
<th>Historic Functions</th>
<th>Current Functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Enter categories from instructions.)</td>
<td>(Enter categories from instructions.)</td>
</tr>
</tbody>
</table>

| | |
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| | |
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| | |

7. Description

<table>
<thead>
<tr>
<th>Architectural Classification</th>
<th>Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Enter categories from instructions.)</td>
<td>(Enter categories from instructions.)</td>
</tr>
</tbody>
</table>

| foundation: | |
| walls: | |
| roof: | |
| other: | |


Narrative Description

(Describe the historic and current physical appearance of the property. Explain contributing and noncontributing resources if necessary. Begin with a summary paragraph that briefly describes the general characteristics of the property, such as its location, setting, size, and significant features.)

Summary Paragraph
### 8. Statement of Significance

#### Applicable National Register Criteria

(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

- **A** Property is associated with events that have made a significant contribution to the broad patterns of our history.
- **B** Property is associated with the lives of persons significant in our past.
- **C** Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- **D** Property has yielded, or is likely to yield, information important in prehistory or history.

#### Areas of Significance

(Enter categories from instructions.)

- [ ]
- [ ]
- [ ]

#### Period of Significance

- [ ]

#### Significant Dates

- [ ]

#### Criteria Considerations

(Mark "x" in all the boxes that apply.)

**Property is:**

- **A** Owned by a religious institution or used for religious purposes.
- **B** Removed from its original location.
- **C** A birthplace or grave.
- **D** A cemetery.
- **E** A reconstructed building, object, or structure.
- **F** A commemorative property.
- **G** Less than 50 years old or achieving significance within the past 50 years.

#### Significant Person

(Complete only if Criterion B is marked above.)

- [ ]

#### Cultural Affiliation

- [ ]

#### Architect/Builder

- [ ]

#### Period of Significance (justification)

#### Criteria Considerations (explanation, if necessary)
United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900  OMB No. 1024-0018
(Expires 5/31/2012)

Name of Property  County and State

Statement of Significance Summary Paragraph (Provide a summary paragraph that includes level of significance and applicable criteria.)

Narrative Statement of Significance (Provide at least one paragraph for each area of significance.)

Developmental history/additional historic context information (if appropriate)
9. Major Bibliographical References

Bibliography (Cite the books, articles, and other sources used in preparing this form.)

Previous documentation on file (NPS):

- preliminary determination of individual listing (36 CFR 67 has been requested)
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey
- recorded by Historic American Engineering Record
- recorded by Historic American Landscape Survey

Primary location of additional data:

- State Historic Preservation Office
- Other State agency
- Federal agency
- Local government
- University
- Other
- Name of repository:

Historic Resources Survey Number (if assigned):

10. Geographical Data

Acreage of Property

(Do not include previously listed resource acreage)

UTM References

(Place additional UTM references on a continuation sheet.)

1
Zone
Easting
Northing
2
Zone
Easting
Northing
3
Zone
Easting
Northing
4
Zone
Easting
Northing

Verbal Boundary Description (Describe the boundaries of the property.)
Boundary Justification (Explain why the boundaries were selected.)

11. Form Prepared By

<table>
<thead>
<tr>
<th>name/title</th>
<th>date</th>
</tr>
</thead>
<tbody>
<tr>
<td>organization</td>
<td>telephone</td>
</tr>
<tr>
<td>street &amp; number</td>
<td>state</td>
</tr>
<tr>
<td>city or town</td>
<td>zip code</td>
</tr>
<tr>
<td>e-mail</td>
<td></td>
</tr>
</tbody>
</table>

Additional Documentation
Submit the following items with the completed form:

- **Maps:** A USGS map (7.5 or 15 minute series) indicating the property's location.
  
  A Sketch map for historic districts and properties having large acreage or numerous resources. Key all photographs to this map.

- **Continuation Sheets**

- **Additional items:** (Check with the SHPO or FPO for any additional items.)

Photographs:
Submit clear and descriptive photographs. The size of each image must be 1600x1200 pixels at 300 ppi (pixels per inch) or larger. Key all photographs to the sketch map.

Name of Property:
City or Vicinity:
County: State:
Photographer:
Date Photographed:
Description of Photograph(s) and number:
1 of ____.
United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900
OMB No. 1024-0018
(Expires 9/30/2012)

Name of Property__________________________________________ County and State________

Property Owner:___________________________________________

(Complete this item at the request of the SHPO or FPO.)

______________ name ________________________________

street & number ____________________________________ telephone ____________________

city or town ___________________________ state __________ zip code ______

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C. 405 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 15 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Send comments regarding this burden estimate or any aspect of this form to the Office of Planning and Performance Management, U.S. Dept. of the Interior, 1549 C. Street, NW, Washington, DC.
APPENDIX E

Indianapolis Historic Preservation Commission Statute, Indiana Code, IC 36-7-11.1-6

Proposed historic preservation plans; recommendations; approval proceedings; official markers

Sec. 6. (a) The commission shall have its staff prepare proposed historic preservation plans for all appropriate areas of the county. Upon the commission’s declaratory resolution of the historic or architectural significance of any area, structure, or site designated in it, the proposed historic preservation plan shall be presented to the metropolitan development commission for public hearing and adoption as a part of the comprehensive plan of the county.

(b) The proposed historic preservation plan must officially designate and delineate historic areas and identify any individual structures or sites in it of particular historic or architectural significance, which structures and sites must be listed on the county register of historic places.

(c) With the designation of a historic structure, the plan may additionally expressly identify and designate the interior, or any interior architectural or structural feature of it, having exceptional historic or architectural significance.

(d) The historic preservation plan may include any of the material listed in IC 36-7-4-503 as it relates to historic preservation. Any plan designating one (1) or more historic areas, and any historic structures and sites located in it, must include a historic and architectural or design analysis supporting the significance of the historic area, general or specific criteria for preservation, restoration, rehabilitation, or development, including architectural and design standards, and a statement of preservation objectives.

(e) In preparing a proposed historic preservation plan, the staff of the commission shall inform, consult, and cooperate with the staff of the department of metropolitan development. In carrying out its planning and redevelopment responsibilities in an area for which a historic preservation plan is being prepared or is in effect, the staff of the department of metropolitan development shall inform, consult, and cooperate with the staff of the commission. To the extent possible, commission staff and department staff shall carry out a joint planning effort relative to proposed historic areas with the resulting information and conclusions relating to historic preservation being placed in the proposed historic preservation plan.

(f) Concurrently or subsequently, the commission may prepare and recommend to the metropolitan development commission, for its initiation, approval, and recommendation to the legislative body for adoption, a historic district zoning ordinance or ordinances to implement the historic preservation plan.

(g) Each historic area or historic zoning district must be of such territorial extent and configuration as will best serve the purposes of this chapter, there being no maximum or minimum size limitations thereon whether applied to single or multiple historic properties or sites, and may include any adjacent area necessarily a part thereof because of its effect upon and relationship to the historic values and character of the area.

(h) The proposed historic preservation plan, if approved and adopted by the metropolitan development commission, constitutes part of the comprehensive plan of the county.
The proceeding for approval of this plan, including notice and hearing requirements, is governed by the same rules and requirements applicable to petitions to the metropolitan development commission for amendment of zoning ordinances and for creation of new district classifications, and by all statutory requirements relative to the metropolitan development commission; however, individual notice of the hearing shall be given each owner of property in any proposed historic area, according to the metropolitan development commission’s rules and requirements or, alternatively, the owner’s consent to the proposed historical area designation may be obtained and filed with the metropolitan development commission.

(j) Amendments to any historic preservation plan, or any segment of it, shall be made in the same manner as the original plan.

(k) The commission shall receive and consider any pertinent information or exhibits such as historical data, architectural plans, drawings and photographs, regarding any proposed or designated historic area, structure, or site, and any request for historic designation or for the exclusion of any property or structure from any proposed or designated historic area.

(l) The commission may adopt any operating guidelines for the evaluation and designation of historic areas, structures, and sites, so long as they are in conformity with the objectives of this chapter.

(m) Upon the adoption of the historic preservation plan, the commission may at any time identify by appropriate markers any historic areas, structures, and sites designated by the plan, or any historic area properties in the process of restoration under the plan. These markers may be erected on public right-of-ways or, with the consent of the owner, on any subject historic property. These official informational or identification markers, whether permanent or temporary, constitute an exception to any codes and ordinances establishing sign regulations, standards, and permit requirements applicable to the area.


Indiana State Enabling Statute, Indiana Code, IC 36-7-11-5

Concern for visual quality in historic district

Sec. 5. The commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in the historic district. However, the commission may not consider details of design, interior arrangements, or building features if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district. A commission established by a county may not take any action that affects property located in a municipality.

APPENDIX F

Minnesota statute, 471.193

Municipal Heritage Commission
Subdivision 1. Policy.
The legislature finds that the historical, architectural, archaeological, engineering, and cultural heritage of this state is among its most important assets. Therefore, the purpose of this section is to authorize local governing bodies to engage in a comprehensive program of historic preservation, and to promote the use and conservation of historic properties for the education, inspiration, pleasure, and enrichment of the citizens of this state.

Subd. 2. Heritage preservation commissions.
The governing body of a statutory or home rule charter city, county, or town may establish a heritage preservation commission to preserve and promote its historic resources according to this section.

Subd. 3. Powers.
The powers and duties of any commission established pursuant to this section may include any power possessed by the political subdivision creating the commission, but shall be those delegated or assigned by the ordinance establishing the commission. These powers may include:
(1) the survey and designation of districts, sites, buildings, structures, and objects that are of historical, architectural, archaeological, engineering, or cultural significance;
(2) the enactment of rules governing construction, alteration, demolition, and use, including the review of building permits, and the adoption of other measures appropriate for the preservation, protection, and perpetuation of designated properties and areas;
(3) the acquisition by purchase, gift, or bequest, of a fee or lesser interest, including preservation restrictions, in designated properties and adjacent or associated lands which are important for the preservation and use of the designated properties;
(4) requests to the political subdivision to use its power of eminent domain to maintain or preserve designated properties and adjacent or associated lands;
(5) the sale or lease of air rights;
(6) the granting of use variations to a zoning ordinance;
(7) participation in the conduct of land use, urban renewal, and other planning processes undertaken by the political subdivision creating the commission; and
(8) the removal of blighting influences, including signs, unsightly structures, and debris, incompatible with the physical well-being of designated properties or areas.
No power shall be exercised by a commission which is contrary to state law or denied a political subdivision by its charter or by law. Powers of a commission shall be exercised only in the manner prescribed by ordinance and no action of a commission shall contravene any provision of a municipal zoning or planning ordinance unless expressly authorized by ordinance.

Subd. 4. Exclusion.
If a commission is established by the city of St. Paul, it shall for the purpose of this section exclude any jurisdiction over the Capitol Area as defined in section 15B.03, subdivision 1.
Subd. 5.Commission members.
Commission members must be persons with demonstrated interest and expertise in historic preservation and must reside within the political subdivision regulated by the ordinance establishing the commission. Every commission shall include, if available, a member of a county historical society of a county in which the municipality is located.

Subd. 6.Communication with state historic preservation officer.
Proposed site designations and design guidelines must be sent to the state historic preservation officer at the Minnesota Historical Society, who shall review and comment on the proposal within 60 days. By October 31 of each year, each commission shall submit an annual report to the state historic preservation officer. The report must summarize the commission's activities, including designations, reviews, and other activities during the previous 12 months.


APPENDIX G


<table>
<thead>
<tr>
<th>City</th>
<th>Interior Designations in Ordinance</th>
<th>Interior Landmarks or Features</th>
<th>Public Access Required</th>
<th>Private Interiors Designated</th>
<th>Owner Consent Required</th>
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<td>Los Angeles, CA</td>
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<td>Pasadena, CA</td>
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<td>Landmarks &amp; Features</td>
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<td>No</td>
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<td>San Francisco, CA</td>
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<td>No, seek it anyway</td>
<td>No</td>
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<td>Telluride, CO</td>
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<td>Coral Gables, FL</td>
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<td>Washington D.C.</td>
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<td>Landmarks &amp; Features</td>
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APPENDIX H

Minneapolis Code of Ordinances, Title 23, Chapter 599

599.110. – Definitions

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this chapter, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Alteration. Any construction, addition, demolition, relocation or material change affecting the exterior of a landmark, property in an historic district or nominated property under interim protection, or the designated or nominated interior of any building, that the planning director has determined is not a minor alteration. Examples may include, but are not limited to, the following:
(1) Destruction of any structure, in whole or in part.
(2) Addition to a structure or moving the location of a structure.
(3) Addition of a structure.
(4) Changes to or replacement of architectural details or visual characteristics such as doors, door frames and openings, windows, window frames and openings, siding, shutters, railings, walls, steps, porches, balconies, or other ornamentation.
(5) Changes to surface materials, color and texture, including painting an unpainted masonry surface such as brick, concrete, stone or stucco, or sandblasting or other abrasive cleaning of a masonry surface.
(6) Changes to or replacement of roofing materials.
(7) Addition or removal of signs and awnings, or changes to or replacement of existing signs and awnings.
(8) Changes to or replacement of landscaping or natural features that are inconsistent with the historic qualities of the property.
(9) Disturbance of archaeological sites or areas.

Certificate of appropriateness. A certificate issued by the planning director evidencing the review and authorization by the commission of plans for alteration of a landmark, property in an historic district or nominated property under interim protection.

Certificate of no change. A certificate issued by the planning director evidencing the review and authorization by the planning director of plans for minor alteration of a landmark, property in an historic district or nominated property under interim protection.

City council. The City Council of the City of Minneapolis.

Commission. The Heritage Preservation Commission of the City of Minneapolis.

Cultural resource. An item, fixture, property, collection of properties, or place that is believed to have historical, cultural, architectural, archaeological or engineering integrity and significance.
**Demolition.** The act of moving or razing a building including the removal or enclosure of sixty (60) percent or more of the structure.

**Designation study.** A study and report prepared to document the historical, cultural, architectural, archaeological or engineering significance of a property.

Design guidelines. Specific design criteria adopted by the commission for landmarks and historic districts to be used in reviewing applications for certificates of appropriateness and certificates of no change.

**Destruction.** The removal, damage or enclosure of architectural, mechanical or landscape features, including, but not limited to, the removal of the primary façade(s), character defining façade(s), or the removal of the roof of the structure for the purpose of raising the overall height of the building or roof, that may have an adverse effect on the historical integrity and significance of a property.

**Director of inspections.** The Director of the City of Minneapolis Inspections Division or his or her authorized representative.

**Historic district.** All property within a defined area designated as an historic district by the city council because of the historical, cultural, architectural, archaeological or engineering significance of the district, or designated as an historic district by state law.

Historic resource. A property that is believed to have historical, cultural, architectural, archaeological or engineering significance and to meet at least one of the criteria for designation as a landmark or historic district as provided in this chapter.

**Historic variance.** Departure from the literal requirements of the zoning regulations governing a landmark or property in an historic district where strict adherence would cause undue hardship due to special conditions or circumstances unique to a site.

**Integrity.** The authenticity of a landmark, historic district, nominated property under interim protection or historic resource evidenced by its location, design, setting, materials, workmanship, feeling or association.

**Interim protection.** Protection from destruction or alteration given to a nominated property following the commission’s decision to commence a designation study.

**Landmark.** Any property, or any interior of a building, designated as a landmark by the city council because of its historical, cultural, architectural, archaeological or engineering significance.

**Minor alteration.** An alteration that the planning director has determined does not affect the integrity of a landmark, historic district or nominated property under interim protection. Examples may include, but are not limited to, changes that the planning director has determined are not significant, and changes that reproduce the existing design and that are executed with the same type of materials and methods as existing if available, or with visually similar materials if the original materials are not available.
**Nominated property.** A property that has been nominated for designation as a landmark or historic district, pursuant to the requirements of this chapter.

**Planning director.** The Director of the Minneapolis City Planning Department or his or her authorized representative.

**Potential Historic District.** A collection of property that is believed to have historical, cultural, architectural, archaeological or engineering significance and to meet at least one (1) of the criteria for designation as an historic district as provided in this chapter.

**Property.** Any land, building, structure or object, surface or subsurface area, natural or landscape feature.

**Receiving site.** The zoning lot on which transferred floor area is to be developed, pursuant to the requirements of this chapter.

**Sending site.** The zoning lot containing a landmark or located within an historic district, and from which undeveloped floor area is to be transferred, pursuant to the requirements of this chapter.

**Significance.** The authenticity of a landmark, historic district, nominated property under interim protection or historic resource evidenced by association with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history; association with the lives of significant persons or groups; because it contains or is associated with distinctive elements of city or neighborhood identity; embodiment of the distinctive characteristics of an architectural or engineering type or style, or method of construction; its exemplification of a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail; exemplification as a work of master builders, engineers, designers, artists, craftsmen or architects; because it has yielded, or may be likely to yield, information important in prehistory or history.

**Structure.** Anything constructed or erected with a more or less fixed location on or in the ground or in or over a body of water. A structure shall include, but not be limited to, buildings, fences, walls, signs, canopies, decks, patios, antennae, piers, bridges, docks and any objects or things permanently attached to the structure.

**The Secretary of the Interior's Standards.** The most recent standards for the treatment of historic properties established by the National Park Service, United States Department of the Interior.

**Transfer of development rights.** The conveyance of undeveloped floor area from one zoning lot to another zoning lot, pursuant to the requirements of this chapter. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 1, 3-27-2009)
APPENDIX I

New York City Administrative Code

Chapter 3 - § 25-301 Purpose and Declaration of Public Policy
a. The council finds that many improvements, as herein defined, and landscape features, as herein defined, having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, have been uprooted, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features, and without adequate consideration of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such improvements and landscape features. In addition, distinct areas may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the sense of the council that the standing of this city as a world wide tourist center and world capital of business, culture and government cannot be maintained or enhanced by disregarding the historical and architectural heritage of the city and by countenancing the destruction of such cultural assets.

b. It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements and landscape features of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this chapter is to (a) effect and accomplish the protection, enhancement and perpetuation of such improvements and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history; (b) safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements, landscape features and districts; (c) stabilize and improve property values in such districts; (d) foster civic pride in the beauty and noble accomplishments of the past; (e) protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; (f) strengthen the economy of the city; and (g) promote the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city.
APPENDIX J

Municipal Code of Chicago

Article XVII. Commission on Chicago Historical and Architectural Landmarks
2-120-580 Purpose of Provisions

It is hereby declared necessary for the general welfare of the citizens of the City of Chicago as an exercise of the home rule authority of the City of Chicago under Article VII, Section 6, of the Illinois Constitution, to protect and encourage the continued utilization of areas, districts, places, buildings, structures, works of art, and other similar objects within the City of Chicago eligible for designation by ordinance as “Chicago Landmarks”. The purpose of these sections is the following:

1. To identify, preserve, protect, enhance, and encourage the continued utilization and the rehabilitation of such areas, districts, places, buildings, structures, works of art, and other objects having a special historical, community, architectural, or aesthetic interest or value to the City of Chicago and its citizens;

2. To safeguard the City of Chicago’s historic and cultural heritage, as embodied and reflected in such areas, districts, places, buildings, structures, works of art, and other objects determined eligible for designation by ordinance as “Chicago Landmarks”;

3. To preserve the character and vitality of the neighborhoods and central area, to promote economic development through rehabilitation, and to conserve and improve the property tax base of the City of Chicago;

4. To foster civic pride in the beauty and noble accomplishments of the past as presented in such “Chicago Landmarks”;

5. To protect and enhance the attractiveness of the City of Chicago to homeowners, home buyers, tourists, visitors, businesses and shoppers, and thereby to support and promote business, commerce, industry, and tourism and to provide economic benefit to the City of Chicago;

6. To foster and encourage preservation, restoration, and rehabilitation of areas, districts, places, buildings, structures, works of art, and other objects, including entire districts and neighborhoods, and thereby prevent future urban blight and in some cases reverse current urban deterioration;

7. To foster the education, pleasure, and welfare of the people of the City of Chicago through the designation of “Chicago Landmarks”;

8. To encourage orderly and efficient development that recognizes the special value to the City of Chicago of the protection of areas, districts, places, buildings, structures, works of art, and other objects designated as “Chicago Landmarks”;

9. To encourage the continuation of surveys and studies of Chicago’s historical and architectural resources and the maintenance and updating of a register of areas, districts, places, buildings, structures, works of art, and other objects which may be worthy of landmark designation; and

10. To encourage public participation in identifying and preserving historical and architectural resources through public hearings on proposed designations, building permits, and economic hardship variations.

(Prior code § 21-62; Added Coun. J. 3-11-87, p. 40272)