

AN EVALUATION OF OREGON'S SPECIAL ASSESSMENT OF HISTORIC  
PROPERTY PROGRAM

by

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## THESIS ABSTRACT

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This thesis examines the Special Assessment of Historic Property Program, a property tax incentive available to owners of historic properties in the U.S. State of Oregon. While several studies and task force reports have been prepared since the Program was signed into law in 1975, none have included the thorough chronological context that this thesis intends to provide. Additionally, with the numerous changes to the Special Assessment Program since the early 1990s, this thesis aims to provide a current evaluation of the incentive provided to participating property owners and governments to preserve significant historic resources. Documents, case studies, and interviews were used to provide a better understanding of a program that has come under repeated criticisms in years past. This thesis will provide a baseline for future research and criticism—both positive and negative—of the Special Assessment Program, a hallmark of the historic preservation movement in Oregon.

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## CHAPTER I

### INTRODUCTION

In the words of Donovan Rypkema, “The arguments for historic preservation are many. They include architectural distinction, social continuity, cultural context, urban planning, historical consciousness, environmental protection and aesthetic excellence.”<sup>1</sup> Put more simply, “It's all about sustainability.”<sup>2</sup> And while the historic preservation movement predates the modern application of the word *sustainability* by decades, the benefits of retaining, rehabilitating, and protecting historic places are today widely understood, and have been so in increasing complexity for almost half a century.<sup>3</sup> However, as is the case with so many social goods and altruistic ideals, historic preservation is not always driven by a capitalistic marketplace. Since public monies will never be available for the comprehensive rehabilitation and maintenance of all historic buildings, the private sector provides for the overwhelming majority of the stewardship of historic properties in the United States. Because of the actual and perceived deterioration, structural need, opportunity cost, regulation, public advocacy, and inflexibility of spaces, historic preservation is often at odds with traditional views of property rights and development expectations. Local jurisdictions, nonprofits, states, and the federal government have recognized the need for partial preservation subsidy through a series of innovative incentives to encourage the private sector to do right by the nation’s heritage. And while some incentive programs have been documented extensively, others have not. Oregon’s Special Assessment of Historic Property Program fits into the latter category. This is a study of that very topic; about the nation’s first successful statewide tax incentive for preservation; about a program in a state that was not even a state when the American historic preservation movement got its start; about a program long overdue for an external overview and evaluation.

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<sup>1</sup> Donovan Rypkema, *The Economics of Rehabilitation* (Washington: National Trust for Historic Preservation, 1991), 1.

<sup>2</sup> Richard Moe, "Sustainable Stewardship: Historic Preservation’s Essential Role in Fighting Climate Change" (speech, Gerding Armory, Portland, OR, March 11, 2008).

<sup>3</sup> United Nations, "Report on the World Commission on Environment and Development: Our Common Future," (U.N. Documents, 1987). <http://www.un-documents.net/ocf-02.htm#I> (accessed April 7, 2011).



The American historic preservation movement got its start in the relatively early days of the new nation, with individuals and historical associations periodically rallying to save places that were symbolically tied to the Founding Fathers and then not-so-distant Revolutionary War. In the early twentieth century, a growing interest in conservation and the National Parks led to the passage of laws to protect and document historic and prehistoric sites owned by the federal government. However, it was not until the 1930s and '40s that public and private interest in preserving historic buildings and sites began to coalesce nationally in the form of regulations and accepted standards.<sup>4</sup> As organizations like the National Trust for Historic Preservation and federal laws like the National Historic Preservation Act were highlighting the value of historic places nationally, a growing movement to preserve tangible reminders of history in the Pacific Northwest began to emerge in the 1960s. First taking hold in cities like Portland and Jacksonville, by the early 1970s local jurisdictions and state agencies across Oregon had begun to codify measures to preserve and protect historic places. Although many of the state baselines followed the standards and experiences set forth by the federal government and East Coast cities, historic preservation in Oregon quickly developed its own unique characteristics.<sup>5</sup>

One of the historic preservation standards that took hold in Oregon, and across the country for apt reasons, was the National Register of Historic Places. The National Register—as it will be referred to in this thesis—is “the official list of the Nation’s historic places worthy of preservation.”<sup>6</sup> Buildings, structures, objects, sites, and districts with defined historical significance and retained physical integrity are eligible for National Register listing. As of February 2011, 1,616,138 resources are listed in the

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<sup>4</sup> Norman Tyler, *Historic Preservation: An Introduction to its History, Principles, and Practice* (New York: W.W. Norton & Company, 2009), 27-42.

<sup>5</sup> Elisabeth Walton Potter, “A Past for Our Future,” (lecture, Historic Preservation League of Oregon Governor’s Conference on Historic Preservation, Jacksonville, OR, October 4, 1997.)

<sup>6</sup> National Park Service, “National Register of Historic Places,” U.S. Department of the Interior, <http://www.nps.gov/nr/> (accessed February 19, 2011).

National Register, with over 10,000 located in Oregon.<sup>7</sup> The specifics of the National Register program will be discussed in greater detail in Chapter III.

Although towns and cities across Oregon have established their own criteria for designating local and conservation landmarks, it was the National Register that was employed as the baseline criterion for the Special Assessment of Historic Property Program when it was passed into law in 1975. In the decades prior to the adoption of the property tax incentive, urban renewal, highway building, suburban sprawl, and demolition-by-neglect were rapidly altering and razing older buildings and districts across Oregon. While case-by-case advocacy campaigns aimed to save individual buildings, private property owners were often permitted and compelled to demolish older buildings because of a lack of regulations and pro formas that indicated new construction would yield higher profits than retaining and rehabilitating older properties. Recognizing the development gap between the ease and profitability of new construction and the complexity and expense of historic preservation, the Special Assessment of Historic Property Program was conceived of and passed in the 1975 session of the Oregon Legislative Assembly.<sup>8</sup> Unless otherwise noted, this thesis will refer to the incentive, Oregon Revised Statute (ORS) 358.475 to 358.545, as *Special Assessment* or the *Program* for simplicity.

In 1975, the Oregon legislature declared, “that it is in the best interest of the state to maintain and preserve properties of Oregon historical significance.”<sup>9</sup> This policy directly translated into a 15-year freeze on the assessed value of any National Register property from the time at which an owner elected to enter into the voluntary program. At the time of its passage, Special Assessment essentially required beneficiaries to perform two duties: 1) to “provide minimum maintenance standards for the property,” and 2) to be “open to the public for sighting at least one day in each calendar year.”<sup>10</sup> In the ensuing

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<sup>7</sup> National Park Service, “National Register of Historic Places;” Heritage Programs: National Register, “Oregon National Register and Survey Program,” Oregon Parks and Recreation Department, <http://www.oregonheritage.org/OPRD/HCD/NATREG/index.shtml> (accessed February 19, 2011).

<sup>8</sup> Earl Blumenauer, phone interview by author, April 7, 2011.

<sup>9</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes* (Salem, 1975), ORS 358.475 to 358.565.

<sup>10</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1975), ORS 358.475 to 358.565.

three and a half decades, the Special Assessment Program has been altered numerous times by intentional legislative changes and ancillary property tax limitation measures. No longer does the Program provide a 15-year freeze or require participating properties to be open to the public; however, preservation plans and minimum investments are standard application requirements for a property owner to receive the now 10-year Special Assessment. As of January 2011, 2,316 properties had participated, or were currently participating, in the Program. That said, participation in Special Assessment has been dynamic, with 21 properties entering into the Program in 1976, 258 in 1994, and only 23 in 2010.<sup>11</sup> In the chapters that follow, these enrollment trends will be annotated through contextual explanation and descriptive statistics.

Although the State Historic Preservation Office (SHPO), administrator of the Program, has compiled a number of reports and convened several taskforces to propose and examine changes to Special Assessment, a comprehensive history of the Program remains absent from the literature at the time of this writing.<sup>12</sup> To date, these government-sponsored studies have largely been conducted in preparation of legislative sessions, including findings and recommendations tailored to the perceived socio-political environments of the times in which they were authored. Although statistics, concepts, and references from these reports will be used throughout this thesis, they do not offer the legislative history or analysis that this study aims to provide.

*This thesis seeks to determine if Special Assessment has provided, and continues to provide, an incentive—and if so to what degree—for property owners and governments to preserve significant privately-owned historic resources.*

Significant historic resources will be defined in this thesis as those properties listed in the National Register. Privately owned will refer to real property that is assessed and subject to property tax. The window of evaluation will include the entire experience of the Special Assessment Program, from 1975 to 2010, but will contain a thorough analysis of the Program as it performs in 2011. The thesis will therefore examine the

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<sup>11</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*, (Salem, OR, printed January 18, 2011).

<sup>12</sup> Task force reports prepared in 1992 and 2008, as well as other previous research documents, will be discussed in more detail in Chapter IV.

perspectives of both the providers and recipients of the Program in the context of its effectiveness.

Numerous authors have explored the topic of preservation incentives, with many differing baseline assumptions used to describe their value and measure their effectiveness. According Marya Morris of the American Planning Association, there are five general purposes for preservation incentive programs. The comprehensiveness of Morris' purposes lend themselves to the differing goals inherent in the changing language of Special Assessment between 1975 and 2011. Morris's purposes will therefore be the ones employed to define the effectiveness of Oregon's Program to provide an incentive to owners and governments.<sup>13</sup> The five purposes, with measurements used in this thesis to define effectiveness, are as follows:

1. Provide a contract between the public and the property owner to foster stewardship. This will be measured by charting participation in the Program, examining the expectations of enrollment, and identifying the length of participation.
2. Counteract land use policies. Land use regulations, or the lack thereof, can encourage high-density new construction and low-density sprawl, both of which can prove harmful to historic resources. This goal will be measured by Program participation, the financial benefit offered to owners, a sampling of property owner perspectives, and the universality of the Program for continued enrollment.
3. Encourage rehabilitation projects. This will be measured by the expectations of enrollment, comparing Special Assessment to other incentives, a sampling of property owner perspectives, and examining the financial benefit computation.
4. Make preservation competitive with new construction and demolition. This will be measured by examining the financial benefit computation.
5. Compensation for regulations and public expectations. This will be measured by Program participation, the financial benefit offered to owners, the universality of the Program, and a sampling of property owner perspectives.<sup>14</sup>

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<sup>13</sup> Marya Morris, *Innovative Tools for Historic Preservation* (Chicago: American Planning Association, 1992), 3.

<sup>14</sup> Morris, *Innovative Tools for Historic Preservation*, 3.

Ultimately, this study is intended as a baseline from which future evaluations and incentive proposals can be grounded. The research included in the chapters that follow is not intended to replace or invalidate previous studies, nor is it intended to directly influence local or state policy. It is, however, intended to shed light on a landmark piece of preservation legislation and provide an understanding of how well the State of Oregon incentivizes property owners and governments to preserve privately held significant historic resources through participation in Special Assessment.

Since learning of Special Assessment in 2006, I have taken an interest in the public and private benefits of the Program, frequently hearing that both property owners and preservation advocates have little or no accurate understanding of the incentive provided or specifics of the Program. Prior to the requirement being eliminated by Senate Bill 192 in 2009, I attended 104 Special Assessment open houses in the Portland metropolitan area for personal enjoyment. This thesis secondarily intends to clarify the many questions and uncertainties held by those, and unquestionably other, historic property owners.

Excluding the informal research I conducted in prior years, thesis research was conducted in the winter and spring of 2011. Extensive literature review, document analysis, and key informant interviews took place in January and February, 2011, with property owner interviews and analysis occurring in March and April, 2011. Thesis research was concluded in May 2011, the date of publication for this study.

The organization of the chapters that follow mirrors the research schedule. Chapter II of this thesis provides a statement of purpose, overview of the methods employed to answer the research question, and descriptions of the limitations and benefits of the study. Chapter III examines the history of the preservation movement and the national context in which Special Assessment was grounded at the time of its passing. Chapter IV provides a legislative and administrative history of the program from its passing in 1975 through the date of this research. Chapter V provides an analysis of the Program from both provider and recipient perspectives, relying on case studies and descriptive statistics to show trends and findings related to the incentive provided. Finally, Chapter VI provides recommendations for policy changes and future research.

## **CHAPTER II**

### **METHODOLOGY**

#### **PURPOSE**

The purpose of this thesis is to provide a summative evaluation of the Special Assessment of Historic Property Program in terms of the incentive provided to property owners and governments to preserve historic resources held in private ownership. The study aims to identify whether the Program provides an incentive to preserve private property listed in the National Register; however, it does not attempt to specifically measure the benefits of the Program. According to Zina O’Leary, summative evaluations “aim to provide data and information related to the effectiveness of the change strategy in question and its efficiency.”<sup>15</sup> In the case of this thesis, the evaluation will strive to identify the changing incentive offered by the Program during its different periods from 1975 to the present, with concluding emphasis placed on the Special Assessment incentive provided in 2011. Changing participation rates, owner perspectives, financial benefit calculations, impacts to local governments, and the degree of preservation activity from 1975 to 2011 will be measured to evaluate the efficacy of the Program. A history of the Program will provide a resource for future researchers, homeowners, and policy makers for use as they see fit.

#### **METHODS**

Summative evaluations, by their very nature, embody a number of perspectives and objectives. This thesis is no different. Determining if Special Assessment provides an incentive to property owners and governments cannot be adequately addressed by one method, so this thesis employs a number of qualitative and quantitative methods. Since this thesis requires both provider and the recipient perspectives to be considered, evaluation of their respective incentives is interwoven throughout this thesis. The recipients of Special Assessment are defined as the properties that have participated in the Program at any point between 1975 and the present. The providers of Special Assessment are defined as both the State of Oregon and the county governments who

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<sup>15</sup> Zina O’Leary, *The Essential Guide to Doing your Research Project* (London: Sage Publications, 2010), 138.

collect property tax revenue. The following methods were used in this thesis:

1. Document Review. The archives of the SHPO were heavily used in the completion of this thesis. Individual property records, staff evaluations, taskforce reviews, interagency memos, and stakeholder communications were all accessed to provide breadth and depth to the history included in Chapter IV. Staff assistance was instrumental in conducting a thorough examination of the records available in binders, boxes, folders, and files, both hard-copy and digital. A Microsoft Access file containing records for all 2,316 properties that had participated, or were currently participating, in Special Assessment as of January 2011 was provided as the basis for much of the descriptive statistics presented in Chapter V. Fields for property name, address, type, assessed value, real market value, investment estimate, and Special Assessment period were provided for each property in the database, however, less data was available for early participants in the program than for those that have enrolled more recently. Additional documents were collected and evaluated from city governments and county assessors where available.
2. Case Study Properties. Five case study properties were selected to illustrate the incentive provided to different types of properties during different periods of the Program. The case studies were purposely selected and are not intended to be universally generalizable, but illustrate both typical and critical cases. Known as maximum variation cases, the case studies documented in Chapter V are meant to “obtain information about the significance of various circumstances for case process and outcomes.”<sup>16</sup> All interviewed case study property owners provided consent and agreed to be interviewed with their identities made anonymous in this thesis.<sup>17</sup> Each case study is unique and illustrates different aspects of the Program and its participants.
3. Unstructured key informant interviews. Program administrators, property tax specialists, county assessors, historic preservation professionals, tax incentive scholars, early preservation advocates, and other key informants were interviewed

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<sup>16</sup> Brent Flyvbjerg, “Five Misunderstandings About Case-Study Research,” *Qualitative Inquiry* 12, no. 2 (2006): 230.

<sup>17</sup> Consent and recruitment forms were approved by the University of Oregon Office for Protection of Human Subjects prior to beginning research.

to understand the history of the Program, as well as to identify perceived strengths and weaknesses of Special Assessment during the different periods of its development. Key informants were provided consent forms and authorized their consent to be interviewed and identified in this thesis.<sup>18</sup> All interviews were recorded by note taking and those cited in the text are listed in the reference list at the end of this thesis.

## **LIMITATIONS**

This thesis, while containing significant background information from around the nation, is generally limited in its scope to property located within Oregon and to preservation tax incentives in the United States. This research may be of interest to other state and local jurisdictions with codified property tax incentives, or an interest in codifying property tax incentives for historic preservation; however, the nature of Oregon's tax system and its unique experience with Special Assessment make the greater generalizability of this study limited. That said, this study is of national interest because it helps add to the existing literature about the history of the historic preservation field. Furthermore, the critical and typical case studies employed are not generalizable, but meant to illustrate the experience of individual properties in different periods of the Program's history.

This study was limited in time and funding. Therefore, large-scale survey of property owners was infeasible, substituted instead with snowball and volunteer sampling for interviews and maximum variation selection for case studies. In many instances, county assessors were not able to provide data without the payment of significant research fees, further limiting the scope of the study.

This thesis is additionally limited in the amount of specific and generalized property value data that were available for analysis, especially from the early years of the Program. While aggregated and specific data were analyzed to the extent possible, permit records and assessed value data could not be comprehensively accessed beyond what is

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<sup>18</sup> Consent and recruitment forms were approved by the University of Oregon Office for Protection of Human Subjects prior to beginning research.



presented in the case studies and descriptive statistics presented in Chapter V. Recommendations as to how to overcome these limitations are provided in Chapter VI.

### **BENEFITS OF THE STUDY**

It is hoped that this thesis will fill a gap in the literature on historic preservation incentives and serve as the most comprehensive study of the development Oregon's Special Assessment Program to date. Additionally, this thesis is intended to provide researchers a starting point for future evaluations or revisions to the Special Assessment Program. Through the extensive national context provided in Chapter III, this thesis will relate Oregon's experience to that of the rest of the nation, showcasing the alternative models and parallel developments of other states and the federal government up through the late 1970s. The Program history contained in Chapter IV combines primary sources and the existing literature to tell the chronological story of Special Assessment, a legislative history that does not adequately exist at the time of this writing. Finally, the evaluation and recommendations provided in Chapters V and VI will provide current and future historic property owners, as well as advocates and governments, with additional information that can assist in charting the future of this and other incentive programs in Oregon and beyond.

## CHAPTER III

### HISTORIC PRESERVATION INCENTIVE CONTEXT

#### THE AMERICAN HISTORIC PRESERVATION MOVEMENT

In order to understand the various types of incentive programs utilized in 2011 and the context into which Oregon's program fits, it is first necessary to examine the historic preservation field as it developed in America. Although at least one publication has argued that "the history of the historic preservation movement in the United States is a subject too vast for condensation into a few dozen pages," this thesis will provide an admittedly hyper-condensed version of the historic preservation movement as it relates to Oregon in the paragraphs that follow.<sup>19</sup>

Beginning with the advocacy campaigns of small groups of East Coast elite in the mid-1800s, the preservation field of the twenty-first century has become an engrained part of governmental agencies, small towns, and urban redevelopment, not to mention the countless organizations and grassroots campaigns that regularly advocate on behalf of the nation's historic places. According to North Carolina preservation consultant Diane Lea, "The concept of preservation is built on a finely wrought and sustained balance between respect for private rights on the one hand and a concern for the larger community on the other."<sup>20</sup> This balance is evident throughout the history of the movement and is illustrated most clearly in the area of preservation regulations and incentives. And it is this balance, between deep-seated property rights and respect for the nation's heritage, that makes the story of preservation in America worth retelling here.

Pegging a date on the inception of the American historic preservation movement has been a source of a bit of debate among scholars. According to most, it was either 1813 or 1853. There's considerable reason to argue that 1813 marked the beginning of historic preservation as that was the year the Old State House (the building known today as Independence Hall) had become so deteriorated and surrounded by lucrative real estate

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<sup>19</sup> Walter Whitehill, "Promoted to Glory," in *With Heritage So Rich*, ed. Albert Rains and Laurance Henderson (New York: Random House, 1966), 37.

<sup>20</sup> Diane Lea, "America's Preservation Ethos: A Tribute to Enduring Ideals," in *A Richer Heritage: Historic Preservation in the Twenty-First Century*, ed. Robert Stipe (Chapel Hill: University of North Carolina Press, 2003), 1.

that the City of Philadelphia considered selling the building and its grounds to investors. The site of the signing of the Declaration of Independence and convening of the Constitutional Convention had a direct impact on a group of community activists who rose up in opposition of the sale.<sup>21</sup> By 1816, the City withdrew the sale plan and opted instead for reuse of the building.<sup>22</sup>

While the saving of Independence Hall set a precedent for preservation, the 1850s effort to save George Washington's Virginia home, Mount Vernon, is just as often credited as being the beginning. After Washington's death in 1799—and his wife Martha's in 1802—their palatial residence began to fall into disrepair. As developers began to contemplate schemes to subdivide the property, Ann Pamela Cunningham formed the Mount Vernon Ladies' Association of the Union with the goal of seeing the property preserved and converted into a house museum. When petitions to the Commonwealth of Virginia and the United State Congress failed, Cunningham succeeded in raising the \$200,000 necessary to buy the property and secure its perpetual preservation.<sup>23</sup> To many, Ann Pamela Cunningham would become the so-called “mother of historic preservation” in America.<sup>24</sup>

Almost immediately, Cunningham's efforts spurred the creation of other like organizations driven to protect and make public the private homes and monuments of Revolutionary War heroes and prominent American politicians. While moneyed East Coast notables largely undertook these early efforts, the role of women in securing the preservation of countless house museums and voluntary preservation associations should—at a minimum—be recognized here.<sup>25</sup>

By the turn of the twentieth century, an interest in the outdoors and conservation of America's natural heritage was leading to a rapid expansion of the National Park

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<sup>21</sup> Lea, “America's Preservation Ethos,” in Stipe, 1.

<sup>22</sup> Tyler, *Historic Preservation*, 29.

<sup>23</sup> Lea, “America's Preservation Ethos,” in Stipe, 1; Tyler, *Historic Preservation*, 29-30.

<sup>24</sup> Sandra Riccio and Sue Pringle, “Women and Historic Preservation,” *National Trust Forum Journal* 16, no. 3 (Spring 2002).

<sup>25</sup> Riccio and Pringle, “Women and Historic Preservation,” in *National Trust Forum Journal*.

system.<sup>26</sup> With the passage of the Antiquities Act of 1906, that interest was affixed to the prehistoric built and archaeological sites that were quickly becoming part of the system. The Act provided congressional support for the preservation and protection of historic sites on federal land and contained the following three key provisions:

1. Excavation or extraction of archaeological remains from federal land could not be conducted without the issuance of a government permit;
2. Archaeological permits would only be granted to educational institutions; and,
3. The President was given the authority to create National Monuments of “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest”<sup>27</sup>

Although private efforts to create house museums and protect individual historic places continued through the early part of the 1900s, the next big development in preservation happened in the 1920s when petroleum magnate John D. Rockefeller took an interest in the restoration and reconstruction of Virginia’s seventeenth century capital of Williamsburg.<sup>28</sup>

Commissioning architects, historians, archaeologists, and craftsmen to recreate an authentic educational experience of early America, Rockefeller recognized that Williamsburg could connect twentieth century visitors to the experience—both built and lived—of their colonial ancestors. Almost as soon as the first phase of the reconstruction was completed in 1934, Williamsburg became one of the nation’s foremost tourist attractions and embodied many of the tenets—namely education and authenticity—that the preservation movement rests on today. Several other restoration and reconstruction projects followed in the Williamsburg mode.<sup>29</sup>

The Depression years also saw the development of two federal programs for preservation that had far-reaching implications from coast to coast. In 1933, the Historic

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<sup>26</sup> The National Park Service would not be established until 1916 when the Department of the Interior lobbied congress to created the separate bureau.

<sup>27</sup> Robert Kelly and David Thomas, *Archaeology*, 5<sup>th</sup> ed. (Belmont, CA: Wadsworth, 2010), 375.

<sup>28</sup> Lea, “America’s Preservation Ethos,” in Stipe, 5.

<sup>29</sup> Lea, “America’s Preservation Ethos,” in Stipe, 5-7.

American Buildings Survey (HABS) was launched to put jobless architects, historians, and photographers to work surveying and documenting major historic buildings around the nation. The companion Historic Sites Act of 1935 directed the Secretary of the Interior to systematically survey historic places for their inclusion into the National Park system. The most important element of the 1935 Act was the creation of the National Historic Landmark (NHL) program, a register of nationally significant places that were either privately owned or not appropriate for National Park or Monument listing.<sup>30</sup>

In 1931, the nation's first designated historic district was created, the "Old and Historic District of Charleston" in South Carolina. Grant funding was quickly secured, and a comprehensive survey and inventory of 1,168 historic Charleston properties was conducted. The preservation ordinance that followed was especially notable in that it transferred the zoning powers provided by South Carolina's state enabling law. Charleston's example became a precedent that would be followed in municipality after municipality, state after state, in the following decades.<sup>31</sup> New Orleans followed suit five years later, establishing the Vieux Carré Commission "in order that the quaint and distinctive character of the Vieux Carré may not be injuriously affected, and so that the value of those buildings having architectural and historical worth may not be impaired."<sup>32</sup>

During the 1940s, a growing number of cities began to adopt similar preservation ordinances that upheld municipalities' ability to designate and regulate their own historic buildings and districts. When New York passed a statewide preservation enabling law in 1956, it became the first state to explicitly permit local governments to create and regulate historic districts.<sup>33</sup>

With a growing interest in local preservation, representatives from a coalition of cultural and heritage organizations petitioned Congress in the late 1940s to charter a nongovernmental agency that could serve as an intermediary body between private and

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<sup>30</sup> Lea, "America's Preservation Ethos," in Stipe, 8.

<sup>31</sup> Constance Beaumont, *Smart States, Better Communities*, (Washington, D.C.: National Trust for Historic Preservation, 1996), 19.

<sup>32</sup> Walter Whitehill, "The Right of Cities to be Beautiful," in *With Heritage So Rich*, ed. Albert Rains and Laurance Henderson (New York: Random House, 1966), 46.

<sup>33</sup> Beaumont, *Smart States, Better Communities*, 20.

public preservation interests. Congress listened, and in 1949 chartered the National Trust for Historic Preservation (NTHP). The National Trust would quickly emerge as an owner of historic places, advocate for local, state, and federal policy, and educator to the public and government.<sup>34</sup> Although the formation of the NTHP provided a major benchmark in the development of the preservation movement, the 1950s and '60s "saw entire sections of cities destroyed for commuting highways to serve the suburbs, while downtown business districts lost favor to suburban shopping centers" due to changing consumer tastes and federal programs that supported activities antithetical to preservation.<sup>35</sup> By 1966, a full half of the properties that had been surveyed for the HABS program had been demolished.<sup>36</sup>

A major milestone for the historic preservation movement came in the form of a 1965 publication of the United States Conference of Mayors, *With Heritage So Rich*. While urban renewal and freeway building were transforming cities across the country, the Conference's Special Committee on Historic Preservation took an interest in "what is happening in the field of historic preservation; the present trends in saving what can be saved, and the losses from destroying what deserves to be saved."<sup>37</sup> The findings presented in the publication are best summed up by the first paragraph of the preface, "We do not use bombs and powder kegs to destroy irreplaceable structures related to the story of America's civilization. We use the corrosion of neglect or the thrust of bulldozers."<sup>38</sup>

In a concluding recommendations section, the report called for the implementation of a comprehensive national historic preservation plan of action. The plan included the establishment of an Advisory Council on Historic Preservation, an

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<sup>34</sup> Lea, "America's Preservation Ethos," in Stipe, 9-10.

<sup>35</sup> J. Myrick Howard, "Where the Action is: Preservation and Local Governments," in *The American Mosaic: Preserving A Nation's Heritage*, ed. Robert Stipe and Antoinette Lee (Detroit: Wayne State University Press, 1987), 116.

<sup>36</sup> J. Myrick Howard, "Where the Action is," in Stipe and Lee, 116; This number may be a poor barometer on which to measure the state of historic preservation because the HABS program specifically targeted the documentation of properties slated for demolition.

<sup>37</sup> Albert Rains and Laurance Henderson, eds. "Preface," in *With Heritage So Rich* (New York: Random House, 1966), xv.

<sup>38</sup> Rains and Henderson, "Preface," in *With Heritage So Rich*, xv.

expanded National Register of Historic Places program, a number of federal financial incentives, and a series of recommendations for inventorying, regulating, and funding historic preservation at the state and local levels.<sup>39</sup> The recommendations were nothing short of groundbreaking, defying the logic of urban redevelopment as it was practiced around much of the nation. Although several key provisions would take decades to realize, many of the recommendations were incorporated in the similarly groundbreaking National Historic Preservation Act of 1966.

The 1966 Act established four key components of institutionalized historic preservation as we know it today: 1) The Advisory Council on Historic Preservation, 2) a system of State Historic Preservation Offices (SHPOs), 3) a review process for historic places impacted by federal actions, and 4) the National Register of Historic Places. While the Advisory Council is primarily concerned with the enforcement of the review process—dubbed Section 106 review—its creation further embedded preservation into the federal bureaucracy. Arguably the most far-reaching section of the Act was the creation of the National Register, an expansion of the earlier National Historic Landmark program. According to the text of the Act, “The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture.”<sup>40</sup> The National Register Program will be discussed in greater detail in the section that follows. Although amended in 1980 and 1992, the Act remains much the same today.<sup>41</sup>

A companion act—the Department of Transportation Act—also codified in 1966, gave sweeping protections to historic properties impacted by federal transportation activities. The Act prohibited federal funding for projects that “substantially impair” any National Register listed or eligible historic places. At the time it was passed it was the

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<sup>39</sup> Albert Rains and Laurance Henderson, eds. “Findings and Recommendations” in *With Heritage So Rich* (New York: Random House, 1966), 210.

<sup>40</sup> National Historic Preservation Act of 1966, Public Law 89-665, *16 U.S.C. 470a(a)*.

<sup>41</sup> Julia Miller, *A Layperson’s Guide to Historic Preservation Law* (Washington, D.C.: National Trust for Historic Preservation, 2008), 3-5.

strongest preservation law at the federal level, and many people consider it to still be so today.<sup>42</sup>

Following the adoption of the two federal acts and a growing consciousness of the inherent value of historic places, the American preservation movement began to settle into its current mainstream form during the 1970s. It was during these years that incentive programs began to emerge in earnest. With the advent of numerous publications and state and local preservation organizations during the Nixon years, homeowners and entrepreneurs began to capitalize on the growing marketability of historic buildings. Landmark commissions, state and local regulations, and a rapid expansion of National Register and local landmark listings gave way to preservation programs in universities and a wealth of scholarly research on America's historic places.<sup>43</sup>

Although there have been many significant preservation advances nationally since the 1970s, few have had a significant impact on the topic of this thesis. One major court ruling, however, should be referenced here as its implications confirmed the authority for government to regulate—and incentivize—the preservation of historic places. In 1978 the United States Supreme Court heard the case *Penn Central Transportation Company v. City of New York* (438 U.S. 104) in which the City of New York denied, on the basis of the local preservation law, an application to significantly alter the historic Grand Central Terminal. The Supreme Court sided with New York, finding that unless an owner is denied all reasonable and beneficial use of property, preservation regulations do not amount to a regulatory taking. The ruling established the precedent that placing historic preservation regulations on private property was a legitimate objective of government.<sup>44</sup> In his opinion of the Court, Justice Brennan noted,

Although the designation of a landmark and landmark site restricts the owner's control over the parcel, designation also enhances the economic position of the landmark owner in one significant respect. Under New York City's zoning laws, owners of real property who have not developed their property to the full extent permitted by the applicable zoning laws are

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<sup>42</sup> Miller, *A Layperson's Guide*, 7.

<sup>43</sup> Lea, "America's Preservation Ethos" in Stipe, 12-15.

<sup>44</sup> Miller, *A Layperson's Guide*, 26.



allowed to transfer development rights to contiguous parcels on the same city block.<sup>45</sup>

In citing the Transfer of Development Rights program offered to designated historic properties, the court acknowledged that the availability of economic incentives further justify governments in placing restrictions on historic properties.

## **THE NATIONAL REGISTER OF HISTORIC PLACES**

One of the key provisions of the National Historic Preservation Act was the creation of the National Register of Historic Places, a program that at its core has changed very little since 1966. According to the National Park Service, “The National Register is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the prehistory or history of their community, State, or the Nation.”<sup>46</sup> To be eligible for listing in the National Register, properties must possess historic significance and physical integrity.

First, a property must embody *historic significance*. To be eligible for listing in the National Register, a property must meet at least one of the following four criteria:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may be likely to yield, information important in prehistory or history.<sup>47</sup>

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<sup>45</sup> Penn Central Transportation Company v. City of New York, 438 U.S. 104 (1978).

<sup>46</sup> Linda McClelland, *National Register Bulletin: How to Complete the National Register Form* (Washington, D.C.: National Park Service, 1997), 1.

<sup>47</sup> McClelland, *National Register Bulletin: How to Complete the National Register Form*, 1; *National Historic Preservation Act of 1966*, “National Register of Historic Places,” 36 CFR Part 60; National Park Service, *National Register Bulletin: How to Apply the Criteria for Evaluation* (Washington, D.C.: National Park Service, 1997), 2.

Once a property has been determined to meet one of the above National Register criteria for evaluation, its significance must be defined within the historic context that makes the property important to local, state, or national history. The placement of a property within a historic context is integral in identifying the theme, place, and time that link a property to important historical trends. Detailed information on criteria considerations, historic contexts, and the criteria for evaluation can be found in the National Park Service's *National Register Bulletin: How to Apply the Criteria for Evaluation*.<sup>48</sup>

Second, a property must possess *physical integrity* to be eligible for listing in the National Register. In order for a property to serve as authentic evidence of its historic significance, it must exhibit the physical characteristics present during its historic or prehistoric period. The National Register defines historic integrity as the sum of the seven defined aspects of physical integrity (location, design, setting, materials, workmanship, feeling, and association). In order to retain sufficient integrity to be eligible for listing in the National Register, a property need not exhibit all seven of the above aspects but must exhibit enough integrity to convey a sense of the time and place that made it historically significant.<sup>49</sup>

Once a property has been determined to possess both historic significance and physical integrity, a National Register Nomination is prepared so the property can be considered for listing in the National Register. Any individual, organization, or government can initiate the nomination process; however, property owners must give consent prior to their property being nominated for listing.<sup>50</sup> According to the Oregon

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<sup>48</sup> National Park Service, *National Register Bulletin: How to Apply the Criteria for Evaluation*, 2-7.

<sup>49</sup> McClelland, *National Register Bulletin: How to Complete the National Register Form*, 4.

<sup>50</sup> Two exceptions to this rule exist. First, public properties can be nominated to the National Register by any individual or organization without the consent of the owning body. Second, historic districts can be nominated to the National Register without the consent of all affected owners. Although the SHPO and the National Park Service have the authority to halt any National Register district nomination that receives a significant number of objections, proposed districts cannot be listed in the National Register if a majority (50 percent plus one) of owners object to designation. For an examination of National Register historic district owner consent issues in Oregon see Kathleen Chase, "Failed Historic District Nominations: The Intersection of Preservation and Private Property Rights in the State of Oregon." Master's thesis, University of Oregon, 2009.

SHPO, individual property nominations typically take between 100 and 150 hours to prepare, with greater time and research required for historic district and multiple building complex nominations. In addition to a standard form with fields about the property's name, location, and classification, two narrative sections provide the primary vehicles for nominators to describe the property and discuss why it's significant. Photographs, maps, and additional documentation are typically expected as part of the National Register Nomination.<sup>51</sup> While National Register Nominations during the early years of the program were often only a few pages in length, today an individual property Nomination can easily reach several dozen pages, with district Nominations frequently including several hundred pages of information.<sup>52</sup>

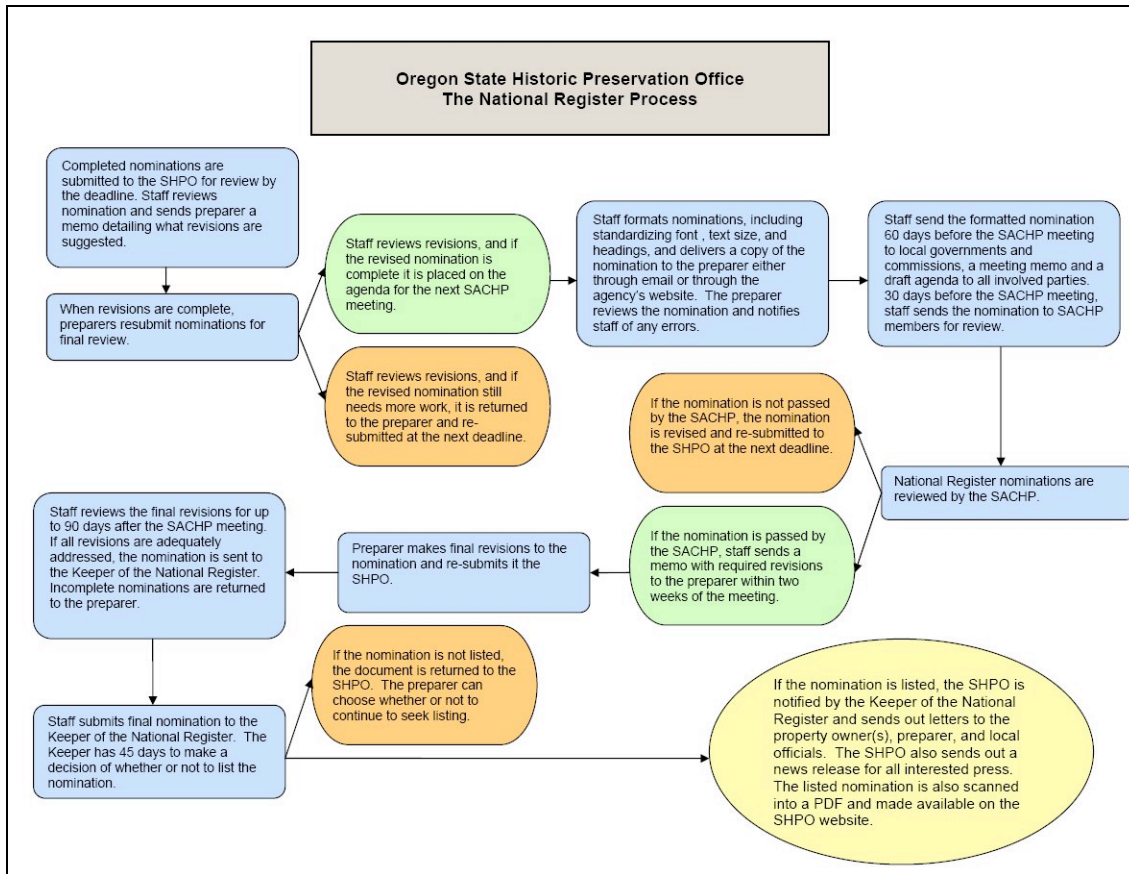
From beginning to end, the National Register process typically takes about one year to complete; however, there are no guarantees that a property will ultimately be listed in the National Register if it is nominated. The review process begins when the nominator submits a completed National Register Nomination to the SHPO for initial review. The SHPO then provides comments and suggested revisions to the nominator. Once the Nomination meets the expectations of the SHPO, the Nomination is sent to local government review bodies for comments, then forwarded to the State Advisory Committee on Historic Preservation. If approved by the Committee, the Nomination is sent to the National Park Service's Keeper of the National Register who provides final review and the authority to list the property in the National Register. At any point in this process, a nominator can be asked to revise or terminate the Nomination if it does not appear to have sufficient historical significance or physical integrity.<sup>53</sup> For more detail on the National Register Nomination process in Oregon, see Figure 3.1.

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<sup>51</sup> State of Oregon, State Historic Preservation Office, "National Register of Historic Places," *Heritage Bulletin* 4 (Salem, OR, 2007): 4.

<sup>52</sup> Kirk Ranzetta, et al., "Irvington National Register of Historic Places Nomination," (National Register of Historic Places Nomination, National Park Service, 2010).

<sup>53</sup> State of Oregon, "National Register of Historic Places," *Heritage Bulletin* 4, 4; State of Oregon, State Historic Preservation Office, "The National Register Process," State Historic Preservation Office, <http://www.oregonheritage.org/OPRD/HCD/NATREG/docs/nrprocess.pdf> (accessed February 12, 2011).



**Figure 3.1** The National Register Nomination and Listing Process in Oregon. Source: State Historic Preservation Office.

National Register listing is an honorary designation and no federal regulations are directly imposed on private properties.<sup>54</sup> That said, local jurisdictions have the ability to place restrictions on National Register properties in order to protect the greater historic character and significance of the community. In Oregon, state law requires local governments to offer consideration to National Register properties and districts; however, the specifics are defined by each individual jurisdiction. Owners of private property listed in the National Register are under no obligations to rehabilitate or restore their properties, and may transfer the property at their discretion. However, once listed, a property can only be removed from the National Register if one of the following circumstances are present:

<sup>54</sup> If federal monies, licenses, or permits are being issues, Section 106 of the Historic Preservation Act does place regulations on the activities occurring to properties under the federal nexus.

1. The decision to list the property was made in error;
2. Factual or procedural errors were made in the Nomination or during the nomination process; or
3. The aspects of integrity exhibited by the property have been diminished to the point where it would no longer qualify for inclusion in the National Register.<sup>55</sup>

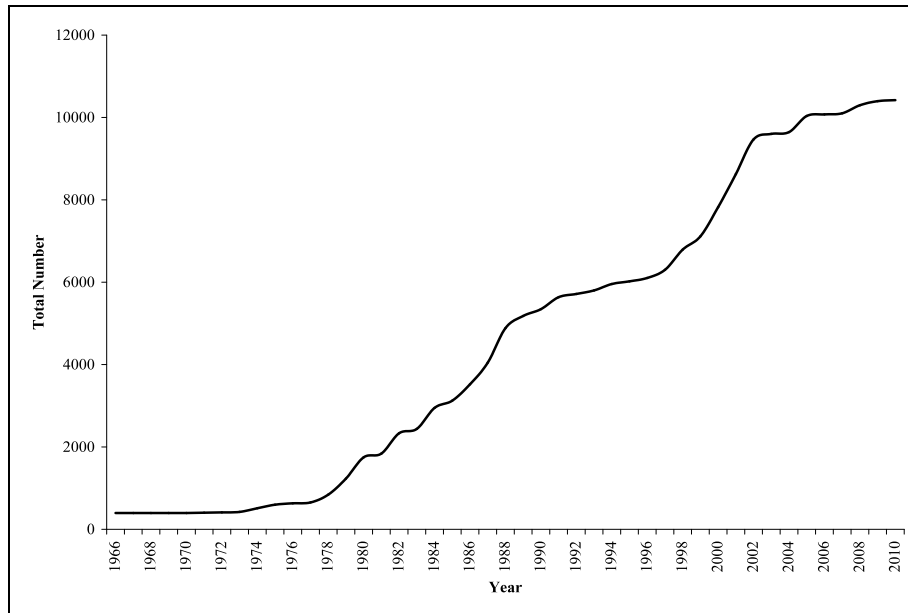
The National Register program has seen sustained growth of listings in both Oregon and nationally since its inception in 1966. As of February 2011, there were over 1.5 million listings nationally and over 10,000 listing in Oregon, comprised of 1,904 individually listed properties and 120 historic districts.<sup>56</sup> Figure 3.2 shows the growth of National Register listings in Oregon over time. According to Tyler, the majority of National Register Nominations have been “prepared by consultants, cultural resource management or architecture firms, or college and university historic preservation, history, architecture, or American Studies students.”<sup>57</sup> The National Register is particularly important to this thesis as it serves as the baseline for eligibility to enroll in the Special Assessment Program.

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<sup>55</sup> State of Oregon, “National Register of Historic Places,” *Heritage Bulletin* 4, 3.

<sup>56</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

<sup>57</sup> Tyler, *Historic Preservation*, 149.



**Figure 3.2** Total National Register Listings in Oregon, 1966-2010.

### **INCENTIVE BEGINNINGS (1950-1975)**

In the traditional sense of historic preservation, tax laws had been supportive of nonprofit and government museums and educational organizations long before the advent of specific preservation tax incentives. Although a benefit by association, charitable tax-exemption can be argued to be the first financial incentive offered for the preservation of significant historic places. House museums, charitable foundations, and governmental agencies have historically been given tax-exempt status and the eligibility to receive tax-deductible contributions and grants to support their missions.<sup>58</sup> This tax advantage provided inherent support for museums, nonprofits, and educational restoration campaigns as they developed during the years before the passage of the National Historic Preservation Act. Tax deductibility still encourages such charitable perseverance today.

In 1975 James Biddle, president of the National Trust for Historic Preservation proclaimed, “The revolving fund is one of historic preservation’s potentially most

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<sup>58</sup> Mortimer Caplin, “Federal Tax Policy as an Incentive for Enhancement of the Built Environment,” in *Tax Incentives for Historic Preservation*, ed. Gregory Andrews (Washington, D.C.: The Preservation Press, 1980), 8.

effective techniques currently in use.”<sup>59</sup> While that may have been true at the time—largely because few other programs were available—loan funds were the first true incentives to be developed by the preservation community.<sup>60</sup> It was recognized as early as the 1950s that a potential tool for filling the gap created by conservative lenders wary of risky rehabilitation projects was the creation of the revolving loan fund. A revolving loan fund is exactly that: money loaned to sensitive historic preservation projects that, once repaid, can be invested in new projects time and time again. While the interest rates for loan funds must be kept low to create the advantage, the altruistic nature of such funds do not necessitate large returns on investment.<sup>61</sup> Charleston, South Carolina, gets the distinction—once again—of being first to the playing field. In 1958 the Historic Charleston Foundation became the first organization in the country to offer a revolving loan fund. Although the Charleston model was based off of the allocation of donor funds to directly purchase and rehabilitate buildings, many of the models that followed shortly thereafter made loans outside of the granting organization itself.<sup>62</sup> A description of revolving funds in Oregon is provided in Chapter V.

Another early incentive tool that developed was the conservation easement. Since 1964 it has been recognized that property owners who donate a restrictive easement to any governmental unit to preserve a scenic view is eligible for a tax-deductible charitable contribution related to the value of the easement. Scenic and open space easements were upheld by regulations and rulings during the late 1960s and early 1970s, making the tool incrementally more mainstream. In 1975 the Internal Revenue Service issued a ruling that supported the charitable deductibility of donating an easement on the features that make a property historically significant. The 1976 Tax Reform Act (as will be discussed in the last section of this chapter) broadened and clarified the criteria for charitable easement

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<sup>59</sup> Arthur Ziegler, Leopold Adler, and Walter Kidney, *Revolving Funds for Historic Preservation: A Manual of Practice* (Pittsburg: Ober Park Associates, 1975), 3.

<sup>60</sup> Ziegler, et al., *Revolving Funds for Historic Preservation*, 3.

<sup>61</sup> Ziegler, et al., *Revolving Funds for Historic Preservation*, 3.

<sup>62</sup> Historic Charleston Foundation, "Revolving Fund," Historic Charleston Foundation, [http://www.historiccharleston.org/preservation/how\\_revolving\\_fund.html](http://www.historiccharleston.org/preservation/how_revolving_fund.html) (accessed February 17, 2011).

donations, allowing for the donating of a historic conservation easement to either a designated charitable organization or government agency.<sup>63</sup>

While preservation organizations were experimenting with easements and revolving loan funds and local governments began reallocating monies once used for demolition toward historic preservation objectives, the authors of *With Heritage so Rich* opened the flood gates to a national program of preservation funding and incentives. The 1965 publication pointed out that, “Frequently, the cost of improvements to older structures is much greater than the appraised value of the structure. Thus its rehabilitation is hopeless... since few local historical organizations and other special interest groups are adequately financed to undertake paying for this difference, our losses continue to mount.”<sup>64</sup> As mentioned near the beginning of this chapter, the report issued several recommendations for stewarding local, state, and federal historic preservation programs and incentivizing the preservation of private historic resources. The report recommended the following for federal tax incentives:

[Clarify] historic preservation as a public, exempt charitable activity... [Confirm] deductibility of gifts of historic easements or restrictive covenants to governmental units or exempt organizations engaged in preservation... Income tax deductibility to private owners of registered historic properties for preservation and restoration expenditures within appropriate limitations... Establish new and liberalized loan programs for private groups or individuals for acquisition and rehabilitation of historic structures and districts.<sup>65</sup>

At the state level, the report called for the following:

Establishing an appropriate state agency, and enabling and encouraging local communities to establish historic preservation districts and to acquire through eminent domain (where necessary) historic structures and sites and preservation easements and preservation easements and restrictive covenants, and providing special property tax treatment for historic structures and preservation and restoration expenditures.<sup>66</sup>

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<sup>63</sup> Caplin, “Federal Tax Policy,” in Andrews, 8.

<sup>64</sup> Carl Feiss, “Our Lost Inheritance,” in *With Heritage So Rich*, ed. Albert Rains and Laurance Henderson (New York: Random House, 1966), 133.

<sup>65</sup> Rains and Henderson, “Findings and Recommendations,” 210.

<sup>66</sup> Rains and Henderson, “Findings and Recommendations,” 210.



At the local level, the report called to, “Provide an annual budget for expenditures to preserve and maintain those historic and architectural structures and places of importance to the community.”<sup>67</sup>

While none of these funding mechanisms were directly put into place as part of the 1966 National Historic Preservation Act, the conversation had begun. States slowly began to use general funds and federal funds allocated through Heritage Conservation and Recreation Service monies to support preservation activities and provide funding for the newly established SHPOs. In 1970, a Tax Law Advisory Committee was appointed by the President’s Council on Environmental Quality to study the impact federal tax policy had on historic preservation and the environment. In 1971 a joint proposal by the Tax Law Advisory Committee and the U.S. Department of the Treasury called for an Environmental Protection Tax Act.<sup>68</sup> The historic preservation incentive provisions identified in the Act were eventually enacted by congress five years later as part of the Tax Reform Act. The Federal Historic Preservation Tax Incentive that came from that Act will be discussed in Chapters IV and V.

In these early years of preservation incentives, several states began to experiment with the development of tax benefit programs. One period article describes these late 1960s and early 1970s experiments with tax incentives as “inducements for preserving existing structures as a form of indirect public subsidy.”<sup>69</sup> New Mexico and Connecticut were two of the first to sponsor state tax incentive legislation.

In 1969 New Mexico enacted a statute that allowed the cost of restoring buildings listed in the New Mexico State Register to be used as a credit against local real estate taxes. The statute required participating properties to be open to the public eight hours per month and be a historically-accurate restoration. In the first ten years of the program, only twelve properties took advantage of the law because of a low property tax rate and

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<sup>67</sup> Rains and Henderson, “Findings and Recommendations,” 210.

<sup>68</sup> Robert Stipe, “State and Local Tax Incentives for Historic Preservation,” in *Tax Incentives for Historic Preservation*, ed. Gregory Andrews (Washington, D.C.: The Preservation Press, 1980), 92.

<sup>69</sup> Paul Wilson and H. James Winkler, "The Response of State Legislation to Historic Preservation," *Law and Contemporary Problems* 36, no. 3 (1971): 330.

the restrictive restoration and visitation requirements.<sup>70</sup> Also in 1969, Connecticut passed a state law allowing any municipality to provide for the full or partial abatement of property tax on historic or architecturally significant buildings. Municipalities had the authority to determine which properties could be made eligible for property tax reduction, but could also delegate the designating authority to local or private organizations.<sup>71</sup> The Connecticut program wasn't a state program, but merely an allowance for local jurisdictions to permit programs tailored to their communities. Neither of these programs saw the participation numbers achieved within just the first few years of Oregon's program.

In 1971, a bill was drafted in the state of North Carolina that would have authorized an income tax deduction of up to 20 percent of expenses incurred restoring or preserving a National Register or local landmark property. The deduction would have allowed a five-year carry-forward of the tax benefit. Properties would have been required to contain educational components, meet accepted professional standards, and be protected by covenants. Support for the bill did not materialize, and actually divided the preservation community over the to projected revenue implications.<sup>72</sup>

In 1972, California passed an act sponsored by State Senator James R. Mills, similar to that passed by Connecticut. The legislation has largely been referred to as the "Mills Act" ever since. The Act allowed for cities and counties to reduce the amount of property taxes owed on designated historic properties that commit to minimum maintenance and conservation standards. Because the state did not provide blanket opting in to the program, municipalities were required to enact contracts enabling local properties to apply. Generally, all contracts were to provide for ten years of benefit with the promise of specified preservation activities. Due to a 1978 property tax limitation measure discussed in Chapter IV of this thesis, the benefit provided by the program since 1978 has been calculated by a standard equation that reduces the property taxes owed. A recent study found that 1,662 Mills Act contracts were in place in 119 cities across

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<sup>70</sup> Stipe, "State and Local Tax Incentives for Historic Preservation," in Andrews, 95.

<sup>71</sup> Wilson and Winkler, "The Response of State Legislation " in *Law and Contemporary Problems*: 330-340.

<sup>72</sup> Stipe, "State and Local Tax Incentives for Historic Preservation," in Andrews, 95.

California with an average property tax savings of 49 percent.<sup>73</sup> Although the Mills Act was authorized by the State of California, it has always served as a local incentive guided by local controls.

Similar to the hierarchy of California's act, in 1974 an act of Congress directed the Washington, D.C. city council to adopt a tax relief program for the rehabilitation of designated historic properties. The prescribed program would have abated the increased value of improvements for five years following a rehabilitation project. While the city considered the tax incentive for four years, concern over lost revenue prompted it to be scrapped in 1978.<sup>74</sup>

The year 1975 brought the passage of the Oregon Special Assessment of Historic Property Program, widely regarded as the nation's first effective statewide preservation tax incentive. The chapter that follows is devoted entirely to the creation and maturation of the Special Assessment Program.

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<sup>73</sup> Andrew Narwold, Jonathan Sandy, and Charles Tu, "Historic Designation and Residential Property Values," *International Real Estate Review* 11, no. 1 (2008): 84.

<sup>74</sup> Stipe, "State and Local Tax Incentives for Historic Preservation," in Andrews, 92.

## CHAPTER IV

### THE SPECIAL ASSESSMENT OF HISTORIC PROPERTY PROGRAM

#### HISTORIC PRESERVATION IN OREGON

After the passage of the National Historic Preservation Act in 1966, Governor Mark Hatfield delegated administration of Oregon's historic preservation program to the State Highway Department, now known as the Oregon Department of Transportation. From 1921 until 1990, the State Parks and Recreation Division was housed under the Highway Department, leading to the retrospectively awkward placement of the historic preservation program within a seemingly unrelated, or even adversarial, agency.<sup>75</sup> According to an unpublished manuscript authored by Elisabeth Walton Potter, in 1969 initial statewide surveying of historic sites across Oregon began in accordance with, and funded by, the National Historic Preservation Act.<sup>76</sup> During these early years of historic preservation in Oregon, the Oregon Historical Society and the Portland chapter of the American Institute of Architects, in addition to numerous local grassroots groups, began researching options for local and state historic preservation policies. Efforts in Portland and Jacksonville led the way. When Portland adopted a landmark preservation ordinance in 1968 it became one of the first on the West Coast to implement a formal program to protect historic resources.<sup>77</sup> By 1971 a formal Oregon SHPO had been established under the State Parks and Recreation Division and a State Advisory Committee on Historic Preservation organized to provide for review of National Register Nominations and offer expert advice to the SHPO.<sup>78</sup> While institutional memory and unpublished gray literature explain this early period of Oregon's preservation movement, the topic is worthy of a publication in and of itself.

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<sup>75</sup> Walton Potter, "A Past for Our Future"; State of Oregon, Oregon Parks and Recreation Department, "About Us," Oregon Parks and Recreation Department, [http://www.oregon.gov/OPRD/about\\_us.shtml](http://www.oregon.gov/OPRD/about_us.shtml) (accessed March 5, 2011).

<sup>76</sup> Elisabeth Walton Potter, "Treasures in the Landscape: A Guide to Oregon Listings in the National Register of Historic Places 1969-1999" (unpublished manuscript, Salem, OR, 2000), 8.

<sup>77</sup> Walton Potter, "Treasures in the Landscape," 8.

<sup>78</sup> Walton Potter, "A Past for Our Future," 1997.

A significant moment for the statewide identification and protection of historic properties came in the form of a groundbreaking land use planning law, 1973's Senate Bill 100. Senate Bill 100 created the Land Conservation and Development Commission and set statewide baselines for land use planning. By 1976, the Commission had adopted 19 statewide planning goals covering areas such as coastal resources, agricultural lands, forests, and housing. The first fourteen goals took effect in January, 1975, with the understanding that several others would follow soon thereafter.<sup>79</sup> Of the initial goals, Goal 5, targeted open spaces, scenic, natural, and historic resources. Goal 5 required local governments to inventory known and potentially historic resources as well as delineate measures for their protection. According to then Oregon Governor Robert Straub, "Goal 5 is a golden opportunity to make certain that, as we plan for the future, historical features of the environment will be considered as thoughtfully as our natural resources."<sup>80</sup> A 1977 study conducted by State Representative David Frohnmayer indicated that the enactment of Goal 5 made Oregon the only state in the nation to require local governments to protect historic resources through land use programs.<sup>81</sup>

Although Goal 5 allowed Oregon to rapidly develop one of the nation's earliest and best historic sites inventories, a property rights revolt in the early 1990s caused a controversial "owner consent" battle that ultimately weakened the strength of Goal 5. The topic of Goal 5 and owner consent will resurface later in this chapter, but deserves further research and evaluation beyond what is available in the existing literature. Although there has never been an explicitly codified nexus between Goal 5 and Special Assessment, the two should always be considered together because of their overarching intent of supporting preservation on a statewide level through required local actions. When conducting interviews for this thesis, many key informants referenced Special

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<sup>79</sup> John Gray and Katie Shriver, "Land Use Planning Information for the Citizens of Oregon" (Portland, OR: Oregon Community Foundation, 2006), 5.

<sup>80</sup> Robert Straub, "Preservation: Connecting the Future with the Past," *1000 Friends of Oregon Newsletter* 3, no. 7 (April 1978).

<sup>81</sup> David Frohnmayer, "LCDC Goal No. 5: A Tool For Historic Preservation," *1000 Friends of Oregon Newsletter* 3, no. 7 (April 1978).

Assessment and Goal 5 as two similarly important hallmarks of Oregon’s approach to preservation, property rights, and urban development.<sup>82</sup>

## **PROPERTY TAXATION IN OREGON UP TO 1975**

Taxation in America is the subject of literally countless theses, dissertations, books, and—who could forget—daily dining room conversations. Taxation is such a prosaic and debated issue that Supreme Court Chief Justice Marshall is credited with proclaiming, “The power to tax is the power to destroy.”<sup>83</sup> Prior to the passage of Special Assessment in 1975, Oregon generated revenue through two primary tools: the income tax and the property tax. These two tools are still the dominant mechanisms employed in 2011 to generate local and state revenue. Both property tax and income tax rates and conditions have seen a number of small and large changes since 1975, both at the local and state level. Additionally, as one of the only states without a sales tax, a number of unsuccessful attempts have been made to employ this somewhat typical third leg to the state revenue stool. Alternative revenue sources will not be discussed in any great detail except where significant to Special Assessment. Therefore, it is the property tax that will be most considered in this thesis. Significant changes to the way in which Oregonians are assessed for property taxation occurred in the 1990s and will be discussed in the sections that follow. While criticisms of the property tax were well-established prior to the passage of Special Assessment in 1975, the property tax served as the “the chief source of revenue for the almost 100,000 units of local government in this country” around the time of the Program’s passing.<sup>84</sup> Before explaining the chronological history of Special Assessment, it is first necessary to understand the property tax program in Oregon prior to the changes of the 1990s.<sup>85</sup>

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<sup>82</sup> James Hamrick, interview by author, Portland, OR, February 14, 2011.

<sup>83</sup> Stipe, “State and Local Tax Incentives for Historic Preservation,” in Andrews, 91.

<sup>84</sup> Joseph McGee, “State and Local Taxation: Current Practices, Procedures, and Effects” in *Tax Incentives for Historic Preservation*, ed. Gregory Andrews (Washington, D.C.: The Preservation Press, 1980), 102.

<sup>85</sup> These changes were primarily generated by ballot measures passed by voters and interpreted by the legislature and Department of Revenue. Because of the pervasive terminology used by key stakeholders interviewed for this thesis, the period during which these initiatives were passed will be referred to as the “property tax revolt” in a later section. Chronologically, these measures were Measure 5 (1990), Measure

Historically, property taxes in Oregon were assessed using a levy-based system that would be applied evenly to the real market value of all property in a taxing jurisdiction. The Oregon property tax dates back to 1859, with a state income tax going on the rolls in 1929.<sup>86</sup> Because property taxes were intended to fund the budgets established by taxing jurisdictions, the levy was based on budgetary need not a fixed rate, as is the case in 2011.<sup>87</sup> Because property owners paid a proportional share of the revenue needed to meet the budget, county assessors would divide the “the total tax a district levied for that year by the total property value in the district.” There was, however, a limit as to how much the levy could rise without being put to a vote.<sup>88</sup> If market value decreased, the rate would increase to compensate for the unchanged revenue needs. According to the Oregon Department of Revenue, “the costs of tax exemptions and special assessments were spread equally among all taxpayers in the district under the system.”<sup>89</sup> In the late 1980s, property tax served as the state’s largest source of revenue, bringing in nearly \$2 billion annually at that time. The primary purpose of the property tax has always been to provide for police, fire, transportation, education, and other local services. In 1982, for example, property tax represented 90 percent of all local government tax revenue in Oregon.<sup>90</sup>

Before the 1990s, the basis for determining property tax on individual property rested on the regular reappraisal of the property for it to be subject to the appropriate level of taxation based on its relative percentage of the jurisdiction’s total value.

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47 (1996), and Measure 50 (1997). Measure 5, an amendment to the Oregon Constitution, reduced the maximum property tax levy that could be imposed by the taxing jurisdiction. Measure 47 (repealed and interpreted by the follow-up Measure 50), rolled-back tax rates and instituted a maximum cap in the growth of assessed property value. All three measures, and their interpretations, generated consequences for the Special Assessment Program.

<sup>86</sup> State of Oregon, Oregon Department of Revenue, *Disintegration of Oregon’s Property Tax System* (Salem, OR: State of Oregon, 1987), 25.

<sup>87</sup> Kevin Toon, ed., “Measures 5 & 50: Functions of Measure 5 and 50 on Local Revenue,” *Local Focus* (December 2010): 12.

<sup>88</sup> State of Oregon, Oregon Department of Revenue, *2007 Report on the Health of the Oregon Property Tax System* (Salem, OR: State of Oregon, 2007), 1.

<sup>89</sup> State of Oregon, *2007 Report on the Health of the Oregon Property Tax System*, 2.

<sup>90</sup> State of Oregon, *Disintegration of Oregon’s Property Tax System*, 1, 19, 28.

Beginning in 1955, county assessors were required to reappraise all property every six years. During the 1980s, as recession gripped much of Oregon, massive cuts were made around the state, including a reduction in the numbers of property tax administrators. With the loss of staff, many counties were unable to maintain the regular assessment cycle, causing unfair imbalances in the assessed value of comparable properties.<sup>91</sup> These imbalances, coupled with a national movement toward tax limitation, led to the changes instituted by voters in the 1990s and discussed in greater detail later in this chapter.

The concept of property tax relief, at least for agricultural owners, dates back to the 1920s in Oregon according to a Portland State University research paper. In 1922, a legislatively appointed committee found that the value of agricultural land often outstripped the productive value of the property due to speculation and property tax growth. The committee's final study recommended that ideally agricultural land be taxed at its true economic value. No program immediately came of this study's recommendation but the metaphorical seed had been planted. In the 1950s, when sprawl began creeping into Oregon's breadbasket communities, the legislature again considered the proposition of a differential assessment of farmland. In the later part of the decade, the State Department of Planning and Development and the State Tax Commission directed the legislature to implement such a program. In 1961, the legislature passed a statute that provided that "farm land which is zoned exclusively for farm use... shall be assessed at its true cash value for farm uses and not at the true cash value it would have if applied to other than farm uses."<sup>92</sup> This law was repealed in 1963 and quickly replaced by similar programs that allowed for "farm deferral" and "farm exemption."<sup>93</sup> Other programs established from the 1960s through 2011 provide for property tax special assessment or exemption for established periods of time or indefinitely depending on the program specifics. In 1979, 93 different exemption and special assessment programs had

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<sup>91</sup> State of Oregon, *Disintegration of Oregon's Property Tax System*, 1-13,

<sup>92</sup> David Brooks, "Is There Still a Need for the Special Assessment Program Within Oregon's Current Land-Use System?" (master's topic paper, Portland State University, 1999), 7.

<sup>93</sup> Brooks, "Is There Still a Need for the Special Assessment Program Within Oregon's Current Land-Use System?," 7.



been approved, ranging from religious properties (total exemption) to urban renewal areas (special assessment).<sup>94</sup>

## **1975 BIRTH OF THE SPECIAL ASSESSMENT PROGRAM**

According to interviews conducted for this thesis, the Special Assessment concept was born in late 1974 or early 1975 during a conversation between John Russell and George McMath of Portland. Both men had been intricately involved in the city's preservation movement for several years and watched as significant buildings were being demolished under the guises of urban renewal and economic hardship. According to former SHPO employee Elisabeth Walton Potter, "McMath's word carried weight," making him a key personality in the push for creating an incentive for preservation. Russell and McMath apparently did not look to other examples nationally, but prepared a homegrown proposal that would benefit property owners who made an investment in rehabilitating historic properties. Although the two men were primarily interested in offsetting the costs of rehabilitating commercial buildings—especially those remaining buildings located in what is now the Skidmore Old Town National Historic Landmark District—their concept could be easily applied to all private property listed in the National Register. Because of the direct connection between market value and tax, Russell and McMath understood that the increased value resulting from historic rehabilitation led to a jump in property taxes owed. To put the rehabilitation of historic buildings at a comparative property tax advantage to new construction or demolition, the two men concluded a property tax freeze would provide encouragement and relief for property owners pursuing a historic preservation path.<sup>95</sup>

With the idea that property tax could be frozen for a defined period of time for historic properties that maintained a minimum level of preservation or rehabilitation, the two preservationists contacted the Executive Director of the Oregon Historical Society, Thomas Vaughan. According to Russell, Vaughn had connections to Earl Blumenauer, chair of the Oregon House of Representatives Revenue Committee. The three were able

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<sup>94</sup> State of Oregon, *Disintegration of Oregon's Property Tax System*, 36-38.

<sup>95</sup> John Russell, interview by author, Portland, OR, February 14, 2011; Elisabeth Walton Potter, interview by author, Salem, OR, February 7, 2011.

to arrange a meeting to propose the incentive to “the bike-riding legislator in sandals.”<sup>96</sup> Blumenauer, McMath, Russell, and Vaughn, along with legislative staff chair Richard Munn, met in early 1975 to discuss the proposal. After laying out the potential opportunities and benefits to existing buildings and districts, Blumenauer closed the meeting with, “Sounds good to us. We’ll do it.”<sup>97</sup> According to a phone interview, Blumenauer said his support for the concept went against the conventional wisdom that “paving surface parking lots was economic development.”<sup>98</sup> Blumenauer hoped that his assisting the concept would bring about at least three primary outcomes that would ripple beyond the individual buildings that received the special assessment: aesthetics, human scale, and diversity of economic uses.<sup>99</sup>

Because the federal historic preservation movement was encouraging private property owners to designate and rehabilitate their properties and Oregon’s budding land use planning system was promoting preservation at the local level, the proponents of the property tax freeze viewed it as a way to both ward off tax penalties incurred by reinvesting in historic property and encourage the private sector to achieve new livability objectives.<sup>100</sup> In a 1978 article for the 1000 Friends of Oregon, George McMath detailed the original intent of the bill. “The purpose of [Special Assessment] is to stimulate restoration and rehabilitation of historic properties. A property owner may file for Special Assessment at a time of his choosing, the most beneficial of which would be the year prior to making a major improvement... without the 15-year freeze, taxes would

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<sup>96</sup> Russell, interview.

<sup>97</sup> Russell, interview; John Russell, interview by Ernie Bonner, October 17, 2000, <http://www.pdx.edu/usp/planpdxorg-interview-john-russell> (accessed March 4, 2011).

<sup>98</sup> Blumenauer, phone interview.

<sup>99</sup> Blumenauer, phone interview.

<sup>100</sup> Russell, interview; Hamrick, interview.

increase.”<sup>101</sup> Minutes from the House Revenue Committee similarly noted that the intent of the bill was to “restore and maintain buildings that might otherwise be lost.”<sup>102</sup>

By April 1975 the proposal had been drafted into bill form.<sup>103</sup> It was Brad Morris, Representative from Medford, who introduced the legislation as House Bill 2476 for consideration in the House of Representatives. After several amendments were added to clarify the language and scope of the Program, the bill passed 57-2 in the House of Representatives and 27-2 in the Senate.<sup>104</sup>

After receiving such broad support in both chambers, House Bill 2476 was signed into law by Governor Robert Straub on June 30, 1975, and was entered into Oregon Revised Statutes as ORS 358.475 through 358.565.<sup>105</sup> Section one of the statute—the “policy”—states, “The Legislative Assembly hereby declares that it is in the best interest of the state to maintain and preserve properties of Oregon historical significance.”<sup>106</sup> The bill allowed for the taxable value to be frozen for a period of fifteen years for properties that met the following criteria:

1. Be individually listed in the National Register of Historic Places, or be a contributor to a district listed in the National Register;
2. Be certified for special assessment by the State Historic Preservation Officer; and
3. Be open and available for public visitation at least one day a year.<sup>107</sup>

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<sup>101</sup> George McMath, “State Property Tax Program Aids Restoration,” *1000 Friends of Oregon Newsletter* 3, no. 7 (April 1978).

<sup>102</sup> Melinda Bruce letter to David Powers, “Minutes of the House Revenue Committee, March 10, 1975,” April 20, 1990, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>103</sup> Janet Goetze, “2 historic districts asked,” *The Oregonian*, April 18, 1975.

<sup>104</sup> Task Force on the Special Assessment of Historic Property, “Report to the Governor and 66<sup>th</sup> Legislative Assembly,” (Salem, OR: State Historic Preservation Office, 1992), 8; Susan Curley, “A Study of the Special Assessment of Historic Property Program (Oregon)” (master’s thesis, University of Oregon, 1992), 6.

<sup>105</sup> Task Force on the Special Assessment of Historic Property, “Report to the Governor and 66<sup>th</sup> Legislative Assembly,” 8.

<sup>106</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes*, (1975) ORS 358.475 to 358.565; No other goal statement was included in the text of the bill, leaving the intended outcomes of Special Assessment somewhat undefined.

<sup>107</sup> State of Oregon, Department of Transportation, Oregon State Parks and Recreation Branch, “Statewide Historic Preservation Plan” (Salem, OR: Department of Transportation, 1976), Appendix A.

Owners of properties desiring Special Assessment were directed to make application through the county assessor using forms approved by the Department of Revenue. An application deadline was set for December 31 of the year prior to the first year in which the period of Special Assessment was to begin. Within ten days of receiving a Special Assessment application, county assessors were required to forward the information to the SHPO for staff and State Advisory Committee on Historic Preservation review. Importantly, Section four of the bill stipulated that applications should not be disapproved “solely because of the potential loss of revenue that may result from granting the application.”<sup>108</sup>

The 1975 bill stipulated that the frozen assessed value would equal the market value of the property at the time in which a Special Assessment application was made. If a property was sold to a tax-exempt entity or was removed from listing in the National Register, ORS 358.515 directed that the property would be disqualified from Special Assessment. That said, sale or transfer to a new owner would not disqualify the property or trigger any reassessment. Unless “the historic property is destroyed by fire or act of God,” any owner that voluntarily removed a property from Special Assessment or rendered it ineligible for listing in the National Register would be required to pay back taxes in an amount equal to 115 percent of the difference between the assessed and market value of the property in the last year in which it was specially assessed, multiplied by the number of years the property had enrolled in Special Assessment.<sup>109</sup> Penalties were not levied on properties that were disqualified from the program due to transfer to a tax-exempt organization.<sup>110</sup>

Finally, the original bill gave the SHPO the authority to request reports from participating property owners at any time and for any reason. If the request went unfilled for 90 or more days, the property became subject to disqualification and the imposition of the penalty listed above. As per the bill, no other exemption or special assessment could

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<sup>108</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes*, (1975) ORS 358.490, 1975.

<sup>109</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes*, (1975) ORS 358.525.

<sup>110</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes*, (1975) ORS 358.525.

be combined with the Program. In all, the text of the bill filled less than three pages in the 1975 book of Oregon Revised Statutes.<sup>111</sup>

On December 30, 1975, State Parks Superintendent David G. Talbot adopted requisite Administrative Rules further delineating the requirements for enrollment in the Program.<sup>112</sup> While the Rules largely clarified the text of the bill, two important components bear repeating here. First, the Rules defined that participants in the Program needed to notify the SHPO each January with the date and time that their property would be open to the public that year. This notification was to include a description of the portions of the property that could be viewed by the public at the time of the open house. Second, the rules stipulated that any participating owner planning on undertaking any improvements, alterations, or repairs must submit a permit application to the relevant local government. Local governments would then be expected to forward permits to the SHPO for compliance review. The SHPO would have the authority to disqualify the property if the permit application did not comply with sound historic preservation standards.<sup>113</sup> Once these Rules were signed, Special Assessment became Oregon's primary tool for incentivizing historic preservation and one of the first viable programs of its kind anywhere in the nation.<sup>114</sup>

On the eve of 1976, Oregon had 597 properties listed in the National Register individually and contributing to districts, most of which were held in private ownership. Twenty-one properties successfully applied to the Special Assessment Program before the December 31 deadline, giving the initial cohort fifteen year freezes that expired at the end of 1990.<sup>115</sup> A copy of the 1975 form used to determine Special Assessment eligibility

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<sup>111</sup> State of Oregon, Legislative Council Committee, *Oregon Revised Statutes*, (1975) ORS 358.540.

<sup>112</sup> State of Oregon, Department of Transportation, Oregon State Parks and Recreation Branch, "Statewide Historic Preservation Plan," Appendix A.

<sup>113</sup> State of Oregon, Department of Transportation, Oregon State Parks and Recreation Branch, "Statewide Historic Preservation Plan," Appendix A.

<sup>114</sup> Lonnie Powers, "State Historic Preservation Tax Structures: Three Case Studies," in *Tax Incentives for Historic Preservation*, ed. Gregory Andrews (Washington, D.C.: The Preservation Press, 1980), 109.

<sup>115</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*; State of Oregon, State Historic Preservation Office, "National Register Nominations," (Salem, OR, printed January 18, 2011).

is included as Figure 4.1 and an original 1975 application form submitted for the Norton House in Portland is included as Figure 4.2.

DETERMINATION OF ELIGIBILITY FOR SPECIAL ASSESSMENT OF HISTORIC PROPERTY

DATE \_\_\_\_\_

*In accordance with Oregon Laws 1975, Chapter 514 (Special Assessment of Historic Property), the following action is taken on the application of:*

*for the property identified as:*

County \_\_\_\_\_

Code and Account Numbers \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Historic Nature \_\_\_\_\_

Location \_\_\_\_\_

*Property is certified for special assessment in its condition this date for the reason(s) noted below. Alterations, improvements and repairs to the property will be made in accordance with the Administrative Rules for Oregon Laws 1975, Chapter 514.*

*Certification for special assessment is denied.*

*Comment:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*CC: Applicant*

\_\_\_\_\_  
David G. Talbot  
State Historic Preservation Officer

**Figure 4.1** Form Used to Determine Eligibility for Special Assessment in 1975. Source: State of Oregon, *Statewide Historic Preservation Plan*, 1976.

**APPLICATION FOR SPECIAL ASSESSMENT OF HISTORIC PROPERTY**  
as provided by ORS 358.475 to 358.565  
Application must be filed with the county assessor prior to December 31  
preceding the first year historic classification is requested

Filed with Multnomah County Assessor for assessments beginning January 1, 19 77

Code and Acct. Nos. <u>889 18020-0500</u> Enter Applicant's Name and Address Below <u>H. Naito Co.</u> <u>55 West Burnside</u> <u>Portland, Ore. 97209</u>  <u>Norton House (Overland Hotel)</u>  Applicant's Telephone No. <u>228-7404</u>	<b>THIS SPACE FOR ASSESSOR'S USE ONLY</b>  <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">DATE RECEIVED</th> <th style="width: 50%;">I.V. NUMBER</th> </tr> <tr> <td> <input type="checkbox"/> Approved in Full  <input type="checkbox"/> Approved in Part  <input type="checkbox"/> Denied in Full  <input type="checkbox"/> No Action Taken by April 1 </td> <td> Assm't Year 19 _____  Land \$ _____  Imp. \$ _____  Total \$ _____ </td> </tr> <tr> <td>Classification by State Historic Preservation Officer</td> <td>T.C.V. of property at time of application</td> </tr> <tr> <td colspan="2">Remarks:</td> </tr> </table>	DATE RECEIVED	I.V. NUMBER	<input type="checkbox"/> Approved in Full <input type="checkbox"/> Approved in Part <input type="checkbox"/> Denied in Full <input type="checkbox"/> No Action Taken by April 1	Assm't Year 19 _____ Land \$ _____ Imp. \$ _____ Total \$ _____	Classification by State Historic Preservation Officer	T.C.V. of property at time of application	Remarks:	
DATE RECEIVED	I.V. NUMBER								
<input type="checkbox"/> Approved in Full <input type="checkbox"/> Approved in Part <input type="checkbox"/> Denied in Full <input type="checkbox"/> No Action Taken by April 1	Assm't Year 19 _____ Land \$ _____ Imp. \$ _____ Total \$ _____								
Classification by State Historic Preservation Officer	T.C.V. of property at time of application								
Remarks:									

**Property: 29-87 NW 1st Avenue DESCRIPTION OF PROPERTY \***  
 Deed or  Contract Deed Volume & Page or Instrument No. \_\_\_\_\_ Date Recorded \_\_\_\_\_  
Lot(s) 5, 8 Block(s) 12 Addition Couch's  
Subsection \_\_\_\_\_ Section \_\_\_\_\_ Twp. \_\_\_\_\_ Rge. \_\_\_\_\_ Acres \_\_\_\_\_

\* If classification is sought for only part of this property, describe portion: \_\_\_\_\_  
(assessed: Same)

I hereby make application to the county assessor for the special assessment of property as historic property. I have read the Administrative Rules adopted by the state historic preservation officer.

- This property is currently listed in the National Register of Historic Places established and maintained under the National Historic Preservation Act of 1966 (Public Law 89-655).
- This property is open to the public for sight-seeing at least one day in each calendar year in accordance with the Administrative Rules.
- This property meets the minimum standards of maintenance established by the Administrative Rules.
- No other exemption or special assessment is in effect, is being, or will be requested for the years during which this classification is sought.

I hereby consent to the viewing of this property by the state historic preservation officer and any advisory committee on historic preservation. SKIDMORE H.D. NORTON HOUSE (1977)

The historic nature of the property is: Please see attached description

Designated potential landmark Building by Portland Landmarks Commission

**WARNING:** A. Historic property, when specially assessed but later disqualified, becomes liable for additional taxes (see ORS 358.525 over).  
B. When property that has received special assessment as historic property becomes disqualified, notice of the change must be given to the assessor prior to the next January 1. This notice must be given by the owner at the time of the change. Failure to give this notice will cause a penalty to be charged against the property (see ORS 358.525 over).

DEC 5 1976

**DECLARATION**

BRUCE G. LAWSON  
ORS 305.920(4)(b) that I have examined this application, and to the best of my knowledge, it is true, correct and complete.

[Signature] [Signature] 11-27 19 76  
Applicant's signature Title Date

Department of Revenue, State of Oregon Form A&A-C-100 SEE OTHER SIDE FOR INSTRUCTIONS AND APPLICABLE LAW

**Figure 4. 2** Special Assessment Application Form First Used in 1975. Source: Special Assessment Files, State Historic Preservation Office.

### 1976-1989 A SIMPLE SPECIAL ASSESSMENT

In the year immediately following the passage of Special Assessment, a number of consequences became apparent. Almost immediately, some jurisdictions recognized the potential revenue and tax equity consequences inherent in freezing the assessed value

of a certain parameter of properties, historic properties. As explained briefly in a previous section, properties participating in Special Assessment had a direct impact on the tax rates for properties not participating in a special taxation program since the property tax levy could be increased to meet budget needs. In the fall of 1975, the Portland City Council voted to delay the designating of any new historic properties until an internal review of Special Assessment was conducted. Although only 16 Portland properties were listed in the National Register at the time, the Council was set to review National Register Nominations for the Yamhill and Skidmore Old Town Districts, Nominations that would boost the number of Portland National Register properties by a factor of four.<sup>116</sup> According to an *Oregonian* article, at least two city commissioners were concerned about the Special Assessment Program, with Mildred Schwab stating, “We are going to make it impossible to own a house in Portland,” and Frank Ivancie pointing out his interpretation that, “We’ll get the same amount of taxes, but there are fewer people carrying the burden.”<sup>117</sup> The study, conducted by the city’s Bureau of Management and Budget, found that the increase in property tax due to participation in Special Assessment would amount to 75 cents per year for the average Portland homeowner.<sup>118</sup> Following the release of the study, the proposed Portland National Register districts were forwarded to the State Advisory Committee on Historic Preservation and approved by the Keeper of the National Register in late 1975 and early 1976.<sup>119</sup> A similar study conducted in Jacksonville in 1976 yielded like findings.<sup>120</sup>

Another immediate consequence of Special Assessment was the “increased interest by property owners to have their properties nominated to the National Register of

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<sup>116</sup> “Landmark tax policy study due,” *The Oregonian*, September 24, 1975; Janet Goetze, “2 historic districts asked,” *The Oregonian*, April 18, 1975.

<sup>117</sup> “Landmark tax policy study due,” *The Oregonian*, September 24, 1975.

<sup>118</sup> Powers, “State Historic Preservation Tax Structures” in Andrews, 110.

<sup>119</sup> State of Oregon, State Historic Preservation Office, “Oregon Historic Sites Database,” <http://heritagedata.prd.state.or.us/historic/> (Accessed March 21, 2011).

<sup>120</sup> Powers, “State Historic Preservation Tax Structures” in Andrews, 110.



Historic Places.”<sup>121</sup> According to Elisabeth Walton Potter, staff at the SHPO began to become limited in their ability to process nominations and perform other administrative duties, leading to the hiring of additional staff members in the years that immediately followed. Walton-Potter was one of these additional staff members. In an interview for this thesis she made clear her perspective that the increase in nominations was due to two factors. First, because the historic preservation movement was becoming more mainstream, property owners and governments were taking a more active role in nominating eligible places to the National Register out of concern for Oregon’s heritage. Second, because the Special Assessment provided a tangible financial benefit to historic properties, long-term owners and investors alike were attracted to the savings that could be achieved.<sup>122</sup>

Another near-overnight byproduct of the Program was the perceived marketing possibilities offered to owners of historic buildings, as evidenced by interviews and newspaper research conducted for this thesis. Because Special Assessment put National Register properties at a comparative tax advantage, the financial benefits of the Program quickly became known to, and debatably exploited by, real estate agents.<sup>123</sup> Figure 4.3 shows an August 1976 sales notice for Jacksonville’s Jeremiah Nunan House that devotes almost half of its written description, however exaggerated, to the Special Assessment tax benefit recently made available to the property. As a contributor to the Jacksonville National Historic Landmark District, the Nunan House had been effectively listed in the National Register since 1966.<sup>124</sup>


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<sup>121</sup> State of Oregon, Department of Transportation, Oregon State Parks and Recreation Branch, “Statewide Historic Preservation Plan,” 8.

<sup>122</sup> Walton Potter, interview.

<sup>123</sup> “Classified ads,” *The Oregonian*, August 1, 1976.

<sup>124</sup> State of Oregon, State Historic Preservation Office, “Oregon Historic Sites Database.”



**THE JEREMIAH NUNAN HOUSE-c. 1890**  
**Jacksonville, Oregon**

This historically important "Queen Anne" style Victorian residence. Beautifully restored, 19 rooms, 6 bedrooms, 3½ baths, 5 fireplaces with handcarved mantels, stained glass windows, plus many more construction and design features of the era. Recorded in the Library of Congress, the Smithsonian Institution, the National Trust, and included in the registry of U.S. National Landmarks.

IF YOU ALREADY ARE AWARE of the comfort and luxury of living in a Victorian home, and if you have considered the rapid investment appreciation of Victorians, THEN NOW ALSO CONSIDER the unprecedented tax advantage available under recent Oregon legislation to owners of property that has been officially designated as eligible for Historic Tax Abatement under HB-2476. Briefly—this legislation freezes the assessed valuation for 15 years, which (capitalized) can attain an accrual equal to the price paid for the house.

For color brochure and particulars, write or phone:  
 (503) 772-4101  
**BRUCE BAUER REAL ESTATE, INC.**  
 767 S. Riverside, Medford, Oregon

**Figure 4.3** Nunan House Sale Advertisement. Source: *The Oregonian*, August 1, 1976.

Another development that deserves mention here, but happened independently of Special Assessment, was the passage of the 1976 Tax Reform Act. As mentioned in Chapter III, after the 1966 publication of *With Heritage So Rich* a number of committees and governmental agencies began to lay the groundwork for a federal incentive program for preservation. The resulting Federal Historic Preservation Tax Incentive program was approved by congress in 1976 and provided for an income tax credit for certified rehabilitation of buildings twenty years or older, accelerated depreciation on substantially rehabilitated property, and 60-month amortization of certain expenditures incurred in rehabilitation certified historic structures. The federal incentive program was expanded in 1978 and 1981, and then subsequently reduced in 1986 into the basic program

implemented today.<sup>125</sup> For sake of simplicity, the post-1986 Federal Historic Preservation Tax Incentive program offers two types of income tax credits for rehabilitation:

1. Twenty percent tax credit for the certified rehabilitation of historic structures; and,
2. Ten percent tax credit for the rehabilitation of non-historic, non-residential buildings built before 1936.

Although the 10 percent credit bears mention, it is the 20 percent credit that is of significance for this thesis. Because the Federal Historic Preservation Tax Incentive program is a credit on income, it does not, nor has not, conflicted with Special Assessment and can be used in conjunction with the Program. The 20 percent credit is available to properties listed in the National Register individually or contributing to a district, and placed in commercial, industrial, agricultural, or rental residential use. The credits are not available for properties used exclusively as owner-occupied residential. Although rehabilitation projects may encompass new construction, the 20 percent tax credit is available only for certified costs that meet the Secretary of the Interior's Standards for Rehabilitation. Applications for the Federal Historic Preservation Tax Incentive program have always been made through the SHPO and approved by the National Park Service.<sup>126</sup> In a short time the Federal Historic Preservation Tax Incentive grew from just a refined idea in 1975, to 539 projects totaling \$140 million in rehabilitation in 1978, to 3,400 projects totaling \$2.2 billion in rehabilitation in 1984.<sup>127</sup> According to a 1984 study published by the National Park Service, "The use of state or local incentives [in conjunction with federal credits] depends directly on the availability of such incentives in a particular locale; subsequently only 26 percent of the respondents used other public, nonfederal incentives."<sup>128</sup> According to the study, property tax

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<sup>125</sup> Jane Boyle, Stuart Ginsberg, and Sally Oldham, *A Guide to Tax-Advantaged Rehabilitation* (Washington, D.C.: National Trust for Historic Preservation, 2009), 10.

<sup>126</sup> National Park Service, Technical Preservation Services, *Historic Preservation Tax Incentives* (Washington, D.C.: National Park Service, 2009), 2-6.

<sup>127</sup> National Park Service, *Tax Incentives for Rehabilitating Historic Structures: Facts and Figures 1977-1983* (Washington, D.C.: National Park Service, 1984), 5.

<sup>128</sup> National Park Service, *Tax Incentives for Rehabilitating Historic Structures: Facts and Figures 1977-1983*, 35.

abatements or special assessments were the most common of these other incentives.<sup>129</sup> Certified 20 percent projects in Oregon are listed in Chapter V.

In October 1977, the SHPO clarified the Special Assessment Administrative Rule to establish standards for the preservation and rehabilitation of properties receiving Special Assessment freeze. The proposed language read, “The criteria to be used by the owner and State Historic Preservation Officer in determining whether or not proposed alterations, improvements, or repairs preserve the historic characteristics of the property shall be the ‘Guidelines for Rehabilitating Old Buildings’ adopted by the United States Department of Housing and Urban Development and the United States Department of Interior.”<sup>130</sup> Although minor, the Rule change suggests that SHPO began modeling Special Assessment on state and national best practices from an early date.

By 1978, Special Assessment was already spurring the sensitive rehabilitation of historic properties in at least Portland, if not other parts of the state, according to proponent George McMath.

During the two years since regulations (sic) were adopted, restoration activity throughout the State has greatly accelerated. In Portland’s Skidmore/Old Town and Yamhill historic districts alone there are nine major rehab projects recently completed, in progress, or in the final planning phase, and many others are in a preliminary stage... The assessment freeze has been the critical factor in the feasibility of many current rehab projects.<sup>131</sup>

By the close of 1978, 88 properties had enrolled in the Special Assessment Program.<sup>132</sup>

When House Bill 2476 was passed in 1975, the legislation permitted new applications for Special Assessment to be accepted only through the end of 1979. Sunset provisions such as this have been included in every revised version of Special

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<sup>129</sup> National Park Service, *Tax Incentives for Rehabilitating Historic Structures: Facts and Figures 1977-1983*, 41.

<sup>130</sup> *Historic Preservation League of Oregon Field Notes* (October 25, 1977).

<sup>131</sup> George McMath, “State Property Tax Program Aids Restoration,” *1000 Friends of Oregon Newsletter* 3, no. 7 (April 1978), 3.

<sup>132</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

Assessment since and will be discussed chronologically in the sections that follow.<sup>133</sup> In March 1979, the Senate reviewed the 1975 sunset provision and passed Senate Bill 265 to extend the sunset date for accepting new Special Assessment applications to the end of 1985.<sup>134</sup> Multnomah County's division of assessment and taxation testified against the extension, even though many of the County Commissioners supported the measure and had been unaware of the opposition provided by the department.<sup>135</sup> Also in 1979, the Multnomah County assessor's office entered into a court dispute seeking an increase in the assessed value of a Specially Assessed historic apartment building that was converted to condominiums.<sup>136</sup> By the end of 1979, 167 properties were participating in Special Assessment.<sup>137</sup>

In 1981 the SHPO studied a number of other incentive programs to better understand the ways in which states were reacting to local and federal currents in preservation.<sup>138</sup> The findings of their study could not be found for this thesis, but the study did not lead to any significant changes to Oregon's program. That same year, three county assessors representing Klamath, Linn, and Marion counties proposed reducing the Special Assessment period from 15 to six years, removing commercial buildings from the eligibility pool, and placing sweeping restrictions on participating properties. Although their proposal gained enough legislative support to be given the title House Bill 2181, the House Revenue Committee tabled the proposal with a majority vote.<sup>139</sup> According to a 1992 report, in response to the attempt to diminish Special Assessment Senator Ted

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<sup>133</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1979), ORS 358.485.

<sup>134</sup> Phil Cogswell, "Senate shuns commission on salaries," *The Oregonian*, March 9 1979.

<sup>135</sup> Kathie Durbin, "Chorus or single voice?," *The Oregonian*, February 25, 1980.

<sup>136</sup> Stan Federman, "Tax Assessment Fight Expected in Court," *The Oregonian*, August 8, 1979; The property in question was the National Register listed Ambassador Apartments in downtown Portland, whose new condominium owners filed for Special Assessment equal to the assessed value of the building when it was still occupied by rental units. The example illustrates the scrutiny in which county assessors reviewed complex Special Assessment applications.

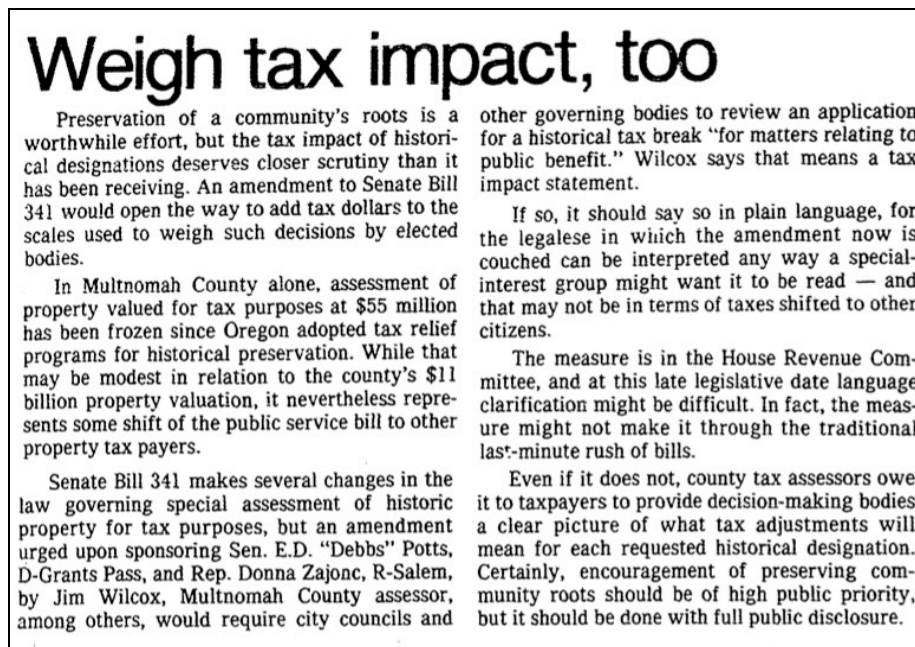
<sup>137</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

<sup>138</sup> Curley, "A Study of the Special Assessment of Historic Property Program (Oregon)," 6.

<sup>139</sup> "Legislative Update," *Historic Preservation League of Oregon Field Notes* (Spring 1981), 3.

Kulongoski sponsored Senate Joint Resolution 18. The Resolution created an interim legislative task force on historic preservation to find avenues for improving Special Assessment to rebut the assessors' concerns.<sup>140</sup>

In the spring and summer of 1983, a number of critical editorials targeting the Special Assessment Program appeared in the pages of Oregon newspapers. In an *Oregonian* column about tax equity, columnist and former Portland Development Commission chairwoman Elaine Cogan wrote, "How much is historic preservation worth? According to a conservative estimate of the Legislative Revenue Office, at least \$12 million in property taxes is saved each year by the lucky owners of partially exempt historic property."<sup>141</sup> A July 1983 editorial in the *Oregonian* questioned Special Assessment's tax impact and encouraged the weighing of revenue loss against "encouragement of preserving community roots."<sup>142</sup> The July editorial, one of the most public critiques of the program up to that time, is included as Figure 4.4.



**Figure 4.4** Editorial on Special Assessment. Source: *The Oregonian*, July 11, 1983.

<sup>140</sup> Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," 8.

<sup>141</sup> Elaine Cogan, "Fairness of exemptions overlooked in taxation debate," *The Oregonian*, May 3, 1983.

<sup>142</sup> William Hilliard, "Weigh tax impact, too," *The Oregonian*, July 11, 1983.

As the critical editorials were running in the *Oregonian* and other papers, the interim task force convened two years before was putting the finishing touches on Senate Bill 279, a bill that would streamline the Program and extend the sunset date of Special Assessment. The bill passed 25-1 in the Senate and 57-1 in the House, authorizing the following significant changes to the Program:

1. New applications for Special Assessment would be made to the SHPO, transferring a responsibility held by county assessors in prior years. A copy of this revised application form is included as Figure 4.5.
2. Property owners could make preliminary applications for classification as historic property.
3. An application fee of one-tenth of one percent of a property's value would be necessary for any Special Assessment application to be considered.
4. New construction occurring after October 15, 1983, would not be considered historic and would not be entitled to Special Assessment. Historically-accurate reconstructions, however, would be exempt from the new construction provision.
5. County assessors, as well as property owners, would have the authority to request a hearing before the State Advisory Committee on Historic Preservation concerning approval or denial of a Special Assessment application.
6. Owners would be given permission to remove their properties from Special Assessment, free of penalty except mandated payment of back taxes, and could reapply again for the full fifteen years of Special Assessment.
7. The 1985 sunset date would be extended to December 31, 1993.<sup>143</sup>

Also in 1983, the legislature and Governor gave weight to the benefits of preservation being met by the Special Assessment by writing the following into law:

Preservation and rehabilitation of historic resources are of importance as a prime attraction for all visitors; that they help attract new industry by being an influence in business relocation decisions; and that rehabilitation projects are labor intensive, with subsequent benefits of payroll, energy

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<sup>143</sup> Margaret Davis, *State Tax Incentives for Historic Preservation* (Washington, D.C., National Trust for Historic Preservation, 1985), 153; Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," 8-9; State of Oregon, *Oregon Revised Statutes* (Salem, 1985), ORS, 358.485-358.543.

savings, and are important to the revitalization of deteriorating neighborhoods and downtowns.<sup>144</sup>

By the close of the 1980s, 847 properties had enrolled in Special Assessment. Of these, four were removed administratively due to disqualification and 51 were removed voluntarily by their owners.<sup>145</sup>

STATE OF OREGON

RECEIVED  
DEC 31 1988  
STATE PARKS AND RECREATION DEPARTMENT

Application  
for  
SPECIAL ASSESSMENT AS HISTORIC PROPERTY  
Pursuant to ORS 358.505

Historic Name of Property Mathewson-Worthington House 1884 c. 1916  
(Name of the property as it is listed in the National Register of Historic Places. If the property is within the boundaries of a Register-listed historic district, enter the name of the district above, and the name of the property here: )

Date of Construction: 1884

Property Address: (Street) 885 McVey Ave  
(City) Lake Oswego (County) Clarkamas

Code & Account Number(s): 265 885 0

(From computer printout available from County Assessor's office)

Current True Cash Value of Property:	Land	\$ <u>21,400</u>	<u>21,400</u>
	Improvements	\$ <u>400</u>	<u>2,990</u>
	TOTAL	\$ <u>21,800</u>	<u>24,390</u>

Assessed Value (from property tax computer printout) \$ 21,800

Application Fee (assessed value x .001) \$ 21.80

Property Owner: Name Lewis K Moller  
Mailing Address 890 IPON MC Blvd  
City Lake Oswego, State Or, Zip 97034  
Telephone Day 636-9426 Evening SAME

Owner's Statement: I certify that I have read and understand the Oregon Administrative Rule which pertains to special assessment of historic property, that this application and the attachments accurately represent the property to be specially assessed, and that the property currently is subject to no other special assessment under Oregon statute. I agree to grant access for the viewing of the property by the State Historic Preservation Officer, the State Historic Preservation Office's staff, and the State Advisory Committee on Historic Preservation. I declare under the penalties for false swearing as contained in ORS 162.085 that I have examined this application; and to the best of my knowledge, it is true, correct, and complete.

Lewis K Moller Owner 12/26/88  
Applicant's Signature Title Date

Attach:  A copy of the County Assessor's current computer printout listing the property's true cash value, and  
 A certified check or money order for the application fee, made payable to the State Parks and Recreation Division, and  
 A minimum of six black-and-white or color print photographs (no slides) which show each exterior elevation of each building on the property to be specifically assessed, as well as representative views of the interior of each building, and  
 A sketch plan of each floor of each building, showing the dimensions of each room.

Send to: State Historic Preservation Office  
State Parks and Recreation Division  
525 Trade St. SE  
Salem, OR 97310

**Figure 4.5** Special Assessment Application Form as Revised in 1983. Source: Special Assessment Files, State Historic Preservation Office.

<sup>144</sup> State of Oregon, State Historic Preservation Office, *1994 Annual Report on the Special Assessment of Historic Property Program*, (Salem, OR: State of Oregon, 1994), 1.

<sup>145</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*; No properties were removed from Special Assessment, either administratively or voluntarily, prior to the enactment of Senate Bill 279 in 1983.



## 1990-1998 THE PROPERTY TAX REVOLT

Since becoming law in 1975, the Special Assessment Program had the effect of freezing historic property's assessed value but did not leave any void in county property tax revenue due to the fact that other property owners could carry the increased burden of annually expanding revenue needs. According to the 1992 Report of the Task Force on the Special Assessment of Historic Property, "Revenues foregone due to a property's enrollment in the program were recouped by increasing the tax rates across the taxing jurisdiction. Thus, Special Assessment was paid for by other taxpayers who experienced a property tax increase of a few cents (or frequently a fraction of a cent) per \$1000 of property value."<sup>146</sup> This longstanding formula received an abrupt change on November 6, 1990, when Oregon voters narrowly approved Ballot Measure 5.

### Ballot Measure 5

Although the "property tax revolt" didn't hit Oregon until 1990, it had already drastically altered the revenue landscapes of a number of other states by this time. As stated in *Property Taxes and Tax Revolts: The Legacy of Proposition 13*,

The first major tax revolt in postwar United States history took place in California in June of 1978. Voters approved by overwhelming majority Proposition 13, which amended the state constitution. In the next several years, the tax-limitation movement swept the country, with more than 58 separate ballot measures appearing throughout the country between 1979 and 1984.<sup>147</sup>

With sweeping calls for smaller government in the 1980s, state after state passed ballot measures limiting the ability of local government to collect the revenue needed to provide for community services. According to economics professor David Figlio, the impetus for limiting property tax stemmed from the belief that local taxing jurisdictions were providing services at needless expense and would be able to provide equal services within tighter budgets. According to a number of studies, many of the voters who

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<sup>146</sup> Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," 9.

<sup>147</sup> Arthur O'Sullivan, Terri Sexton, and Steven Sheffrin, *Property Taxes and Tax Revolts: The Legacy of Proposition 13*, (Cambridge, MA: Cambridge University Press, 1995), 1.

supported tax limitation measures during the era belied that the mandated decrease in revenue would not lead to a decrease in services. Whatever the reasons, a majority of Oregon voters did in 1990 what half of the United States had done since 1978: capped property taxes.<sup>148</sup>

When passed, Measure 5 amounted to the most substantial change to the Oregon property tax program since it began in 1859. The Measure instituted a limit of \$5 per \$1,000 in real market value for schools and \$10 per \$1,000 of real market value for funding other local government services. Because many jurisdictions in Oregon had higher tax rates than allowed by the Measure 5 cap, municipalities were required to incrementally reduce the tax rate until they fell within the mandatory limits.<sup>149</sup>

### The “Dark Days of Preservation”

In the immediate aftermath of the passage of Measure 5, the historic preservation community was unsure as to how significantly the ballot measure would compromise the comparative tax benefit provided by Special Assessment. Architect and preservationist Al Staehli’s winter 1991 *Field Notes* article, “Ballot Measure 5 May Have Ended the Benefits from the Special Assessment of Historic Properties,” is especially telling of the immediate fears. According to Staehli, in late 1990 and early 1991 governments and agencies across Oregon were scrambling to understand the full impact Measure 5 would have on revenue and budgeting. An Attorney General opinion of September 7, 1990, indicated that, “The benefits of any special assessments for any property, agricultural lands or historic properties, may have become marginal or of no effect.”<sup>150</sup> Staehli’s concern, as was undoubtedly that of many property owners, was that the reduction of property tax assessment rate from upwards of \$25 in 1990 to a maximum of \$15 per \$1,000 in assessed value would provide significant tax savings for non-specially assessed

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<sup>148</sup> David Figlio, “Short-Term Effects of a 1990s-Era Property Tax Limit: Panel Evidence of Oregon’s Measure 5,” *National Tax Journal* 51, no. 1 (March 1998): 55.

<sup>149</sup> State of Oregon, *2007 Report on the Health of the Oregon Property Tax System*, 2; David Figlio, “Short-Term Effects” *National Tax Journal*, 56.

<sup>150</sup> Al Staehli, “Ballot Measure 5 may have ended the benefits from the special assessment of historic properties,” *Historic Preservation League of Oregon Field Notes* (Winter 1991).

property owners, however, would leave Specially Assessed properties assessed at the existing higher tax rates. Ultimately, many of Staehli's concerns were muted when the legislature adopted House Bill 2550 during the 1991 legislative session. The bill made adjustments to revenue-related language so that existing laws like Special Assessment would conform with Measure 5 terminology and impact. The language of the Program was amended to replace the phrases "true cash value" with "real market value" and "assessed value" where appropriate. Because Measure 5 also changed the property tax year, the Special Assessment effective date was changed from January 1 to July 1, however, the application deadline was not changed. Finally, and most important to the concerns of preservationists and property owners, assessors were directed to tax the lesser of the capped tax rate or the specially assessed rate on a property-by-property basis.<sup>151</sup>

Another key decision passed down in 1990 regarded the ability of participating properties to enroll in a second term of Special Assessment. In that year, and again in 1993, the Department of Justice informed SHPO that no language in the Program legislation allowed for second terms, therefore no property could enroll in Special Assessment for longer than 15 years.<sup>152</sup>

Preservation scholars recognized the potential blowback of property tax incentives long before the Oregon's revolt of the 1990s. Robert Stipe, in a 1980 essay, described the perceived tax inequity by stating, "Any scheme that gives even the appearance of diminishing the tax base reasonably may be expected to promote howls of objection not only from local officials but from their powerful state-level representatives as well."<sup>153</sup> Oregon's Program fell victim to this fundamental American perception of tax equity when a vocal segment of public opinion turned against Special Assessment in the early 1990s.

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<sup>151</sup> Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," 10; State of Oregon, *Oregon Revised Statutes* (Salem, 1991), ORS 358.485-358.543.

<sup>152</sup> Jerome Lidz letter to James Hamrick. "Renewal of Special Assessment," April 2, 1993, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>153</sup> Stipe, "State and Local Tax Incentives for Historic Preservation," in Andrews, 98.

In interviews conducted for this thesis, many key stakeholders identified the source of the opposition to Special Assessment as a perception that wealthy homeowners in Portland's West Hills were listing their properties in the National Register and enrolling in Special Assessment as a tax shelter rather than as a commitment to history. Brian Booth, chair of the Oregon State Parks and Recreation Committee, was one such vocal critic. In a 1990 "Preservation Profile," Booth argued that, "A listing on the National Register should be primarily history driven, not tax-credit driven. The [Special Assessment] programs should not function strictly for the benefit of the property owner. Identification of properties and information about the reason they are on the register should be readily available to the public."<sup>154</sup> The growing concern over the Measure 5 tax shift and the perception of abuse led to countless critical editorials being published across the state in 1990 and 1991.<sup>155</sup>

In the fall of 1991, the Historic Preservation League of Oregon chimed in, noting that, "During the last year there have been numerous articles in the *Oregonian* criticizing the Special Assessment program. Fueling these criticisms is the belief, held by a small number of people that the program has been abused and has become a gift for the rich and influential."<sup>156</sup> Between the approaching sunset date and the vocal opposition to the Program, the SHPO reacted with two measures to secure and enhance the Special Assessment Program before the legislature would meet again in 1993: changes to the Administrative Rules and the convening of an expert task force.

In late 1991 the SHPO proposed making several changes to the Administrative Rules guiding the Program in order to "1) tighten open house requirements; 2) require mandatory design review for major alterations and new construction; 3) remove the State Advisory Committee of Historic Preservation as an appeal body for the program; and 4) make technical corrections."<sup>157</sup> In addition to requiring stronger design review and open

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<sup>154</sup> Karl Klooster, "Preservation Profile," *Historic Preservation League of Oregon Field Notes* (Fall 1990): 8.

<sup>155</sup> Henry Kunowski, interview by author, Eugene, OR, February 8, 2011.

<sup>156</sup> Mike Byrnes, "From the President," *Historic Preservation League of Oregon Field Notes* (Fall 1991): 2.

<sup>157</sup> Mike Byrnes, "From the President," *Historic Preservation League of Oregon Field Notes* (Fall 1991):2.

house reporting, the changes required all properties enrolled in the Program to display signs identifying them as Specially Assessed.<sup>158</sup> According to former SHPO employee and plaque designer Henry Kunowski, the plaques were designed by SHPO staff to be cost-efficient and recognizable.<sup>159</sup> According to Mike Byrnes, president of the HPLO, the “SHPO acted in haste, although under a great deal of political pressure” in making the changes to the Administrative Rules.<sup>160</sup> Once the Administrative Rules were adopted, property owners were notified of the requirement to purchase SHPO plaques by July 1, 1993. A photograph of a Special Assessment plaque is included as Figure 4.6 and the original Plaque Program Order Form as Figure 4.7.



**Figure 4.6** Special Assessment Plaque. Source: Author, Eugene, OR.

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<sup>158</sup> Task Force on the Special Assessment of Historic Property, “Report to the Governor and 66<sup>th</sup> Legislative Assembly,” 10.

<sup>159</sup> Kunowski, interview.

<sup>160</sup> Mike Byrnes, “From the President,” *Historic Preservation League of Oregon Field Notes* (Fall 1991):2.

**OREGON**  
**STATE HISTORIC PRESERVATION OFFICE**  
**HISTORIC PROPERTY SPECIAL ASSESSMENT**  
**PLAQUE PROGRAM**

**ORDER FORM**

Property Owner Information: [PLEASE PRINT]

---

Name(s) \_\_\_\_\_

---

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

---

Home Telephone Number \_\_\_\_\_ Business Telephone Number \_\_\_\_\_

Historic Property Information: ( if known, as indicated on National Register Nomination )

---

Construction date \_\_\_\_\_

Historic Property Name \_\_\_\_\_

---

Historic District Name (if applicable) \_\_\_\_\_

---

Historic Property Address \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ Zip Code \_\_\_\_\_

**Plaque Order Information** (this form may be duplicated for each additional plaque order)

7 X 10 inch Plaque: Quantity \_\_\_\_ x \$50.00 = \$ \_\_\_\_\_

3 X 5 inch Plaques: Quantity \_\_\_\_ x \$20.00 = \$ \_\_\_\_\_

Total Amount of Purchases \$ \_\_\_\_\_

Please make checks or money orders payable to: **Oregon Parks & Recreation Department**

Send your payment and Order Form to: **Susan Q. Haylock**  
**State Historic Preservation Office**  
**1115 Commercial Street, NE**  
**Salem, Oregon 97310-1001**

**Figure 4.7** Special Assessment Plaque Order Form. Source: Special Assessment Files, State Historic Preservation Office.

As mentioned before, the SHPO also convened an outside Special Task Force to examine the program. In August 1991 the ten-member Special Assessment Task Force was appointed with a directive to gather information and public opinion on the Program’s strengths and weaknesses and make recommendations to the legislature in advance of the 1994 sunset date.<sup>161</sup> Their mission was specifically to, “Examine the current statute and

<sup>161</sup> “Future of Special Assessment Program to be Decided by Legislature,” *Historic Preservation League of Oregon Field Notes* (Winter 1993): 7.

those in other states... look at the program's fiscal impacts on Oregon communities, potential impacts of Measure 5, the effectiveness of statutory provisions such as design review and public visitation... and make recommendations for the future direction of the program."<sup>162</sup> Additionally, a paralleling economic impact analysis and data base report were commissioned by SHPO to evaluate the program. The Task Force report and commissioned economic and data reports were to be completed in advance of the 1993 legislative session.

The Task Force recommended a number of changes. An abbreviated list of recommendations found in the executive summary to the "Report to the Governor and 66th Legislative Assembly" are listed below. The full list of findings and recommendations can be found in the final report.

A revised historic preservation property tax incentive program should be enacted by the legislature, based on the findings and recommendations included in this report... Only properties individually listed on the National Register of Historic Places or designated as primary or secondary contributing resources within a National Register Historic District shall be eligible for the historic preservation property tax incentive program. Properties which are non-contributing [to a historic district] in their current condition may be eligible if they are upgraded and re-evaluated by their local landmarks commission.... The Task Force recommends that the 15-year freeze on assessed value be retained as the program's tax incentive. The incentive is fully justifiable based on the economic benefits of the program since 1975. Indexing, or any other proposal to limit or reduce the incentive would weaken the program's effectiveness in promoting historic preservation and economic development... All properties applying for certification to participate in the historic preservation property tax incentive program shall file a Preservation Plan with the State Historic Preservation Officer (SHPO), proposing treatment for the property's significant historical features. Historic Preservation Plan Guidelines will be developed by administrative rule... Property owners shall not be required to open the interior of their property for public visitation.<sup>163</sup>

In addition to the findings and recommendation, the Task Force report identified the impact of the program on local property tax revenue, however noted that "it is

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<sup>162</sup> Curley, "A Study of the Special Assessment of Historic Property Program (Oregon)," 10.

<sup>163</sup> Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," vi-x.

difficult for some property owners to make an accurate assessment of the program's value for them prior to applying for acceptance into the program" due to the timing of the application, amount of rehabilitation dollars invested, property tax rates, and assessment practices at the time of expiration.<sup>164</sup> Both the "Report to the Governor and 66<sup>th</sup> Legislative Assembly" and Susan Curley's University of Oregon master's project, "A Study of the Special Assessment of Historic Properties Program," should be consulted for a thorough understanding of the research, findings, and recommendations that were presented to the governor and legislature in October 1992.

In 1993, the Oregon House inserted "owner consent" language into House Bill 2124, the bill targeted towards renewal of Special Assessment. While Special Assessment, as a voluntary program, inherently required owner consent, designation of local historic resources did not. A "small group of private property rights advocates" had effectively lobbied legislators to include language into the bill that required private property owners to voluntarily accept local designation, where in the past governments could impose such designation.<sup>165</sup> The bill was passed by the legislature. The fall 1993 issue of *Field Notes*, the Historic Preservation League of Oregon quarterly newsletter, stated,

Because of the 'owner consent' amendment, the [Historic Preservation] League and others who care about Oregon's valuable historical resources were forced to choose between the special assessment incentive program and the protection of cultural and historic resources through statewide land-use planning. After considerable discussion, the HPLO Board of Directors decided that in order to protect the integrity of the state's inventory of historic and cultural resources, the League must choose land-use protection and planning over the special assessment program (sic) incentive program. Reluctantly, the HPLO Board of Directors asked Governor Roberts to veto HB 2124.<sup>166</sup>

Governor Barbara Roberts heeded the HPLO and others' call, and vetoed the bill on September 16, 1993, effectively terminating applications for Special Assessment

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<sup>164</sup> Task Force on the Special Assessment of Historic Property, "Report to the Governor and 66<sup>th</sup> Legislative Assembly," xiv.

<sup>165</sup> "Legislative update," *Historic Preservation League of Oregon Field Notes*, (Fall 1993).

<sup>166</sup> "Legislative update," *Historic Preservation League of Oregon Field Notes*, (Fall 1993).



received after December 31, 1993. According to a fall 1993 *Oregonian* article about the program's impact, "Whatever the arguments [about Special Assessment], they will become largely moot in about a week."<sup>167</sup> Governor Roberts' veto marked a significant turning point for Special Assessment, and her statement, although lengthy, bears repeating here:

The decision to veto this bill (HB 2124) is particularly painful to me in light of my longtime support for historic preservation and for the special assessment program which will sunset on January 1, 1994. I recognize that the assessment program has been a powerful incentive for the establishment of National Historic Districts, and has served as an important economic development tool in the revitalization of many downtown districts throughout the state.

Important as the special assessment has been, however, it must be placed in context. Those properties on the special tax assessment prior to the sunset will retain that status despite my veto, and all properties continue to benefit from the tax relief provided by Measure 5. Further, historic preservation in Oregon is much more than the special assessment program. Equally vital are Oregon's commitment to protecting historic sites, reflected by the current citizens work on the Barlow Trail management, and many other local historic district programs that extend beyond the structures benefited by the special tax treatment.

I conclude that the loss of the special assessment tool for new properties between January 1, 1994 and the next legislative opportunity to address the program is outweighed by the importance of maintaining the integrity of Oregon's land-use planning system and of local governments' ability of protect cultural and historic resources through carefully crafted ordinances and programs.<sup>168</sup>

In large part due to the pending sunset, 258 properties were accepted into the Special Assessment Program in 1993 to begin their fifteen-year terms in 1994. Over the history of the Program (1975-2010), 1993 stands as the year with the highest number of applications. In 1994, a total of 1,578 properties were actively participating in the program.<sup>169</sup> Because of the sunset, no applications were processed in 1994.

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<sup>167</sup> Gail Hill, "Legislative sun setting on historic tax breaks," *The Oregonian*, December 27 1993.

<sup>168</sup> "Legislative update," *Historic Preservation League of Oregon Field Notes*, (Fall 1993).

<sup>169</sup> State of Oregon, State Historic Preservation Office, *1994 Annual Report on the Special Assessment of Historic Property Program*, 1.

In early 1995, a number of economic incentives for preservation were introduced in the Oregon Senate. Although novel ideas such as rehabilitation and seismic tax credits were proposed, it was only Senate Bill 588 that made it through the legislature, reestablishing the Special Assessment Program. It should be noted that the owner consent issue that led to the 1993 veto resurfaced in 1995 and was approved by an override of the governor's veto, marking a significant loss for the statewide identification and protection of historic properties.<sup>170</sup>

The Special Assessment program as reauthorized by Senate Bill 588 contained a number of significant changes. Briefly, these changes were that properties must be in need of significant rehabilitation, owners must prepare 15-year preservation/renovation plans, a three-member Historic Assessment Review Committee was created, applications would only be accepted between January 1 and April 1 (unless a property changed hands), the application fee increased in cost, and second terms were permitted for commercial properties that provide seismic, energy, or accessibility improvements.<sup>171</sup> The most significant of these provisions are described below.

According to the text of the bill, applicants to Special Assessment would be required to submit either a preservation plan or renovation plan upon application.

‘Preservation plan’ means a written rehabilitation proposal submitted by the owner with the application for classification and special assessment as historic property, as approved and as it may from time to time be amended and reapproved, that is in compliance with standards and guidelines for rehabilitation and rules adopted by the State Historic Preservation Officer.... ‘Renovation plan’ means a written proposal submitted by an owner of a commercial property in connection with a reapplication for special assessment...that is in compliance with the rules adopted by the State Historic Preservation Officer for the submission and content of renovation plans.<sup>172</sup>

A Special Assessment application form, sans preservation plan template, as used in 1995 is included as Figure 4.8.

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<sup>170</sup> “Oregon’s Heritage,” *Historic Preservation League of Oregon Field Notes* (Spring 1995).

<sup>171</sup> State of Oregon, State Historic Preservation Office, *2000 Legislative Report on the Special Assessment of Historic Property Program* (Salem, OR: State of Oregon, 2000), 2.

<sup>172</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1995), ORS 358.482.

**STATE OF OREGON**  
**Application for Special Assessment as Historic Property**  
**Pursuant to ORS 358.505**

Historic Name of Property: (Name of the property as it is listed in the National Register of Historic Places.)  
 \_\_\_\_\_

Historic District: (If the property is within the boundaries of a National Register-listed district)  
 \_\_\_\_\_

Property Address:  
 Street \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_

Date of Construction: \_\_\_\_\_ Date Listed on the National Register: \_\_\_\_\_

Current Use (Circle one): R (Residential); C (Commercial); M (Multi-Family); I (Industrial); F (Farm)  
 Proposed Use (If different): R (Residential); C (Commercial); M (Multi-Family); I (Industrial); F (Farm)

Property Tax Account Number(s): \_\_\_\_\_

Current Real Market Value:	TOTAL	\$ _____
Assessed Value:	TOTAL	\$ _____
Application Fee (RMV x .002) (Non-refundable)	TOTAL	\$ _____

Property Owner:  
 Name \_\_\_\_\_ Telephone (Day) \_\_\_\_\_ (Night) \_\_\_\_\_  
 Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner Representative (if applicable):  
 Name \_\_\_\_\_ Telephone (Day) \_\_\_\_\_ (Night) \_\_\_\_\_  
 Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

OWNER'S STATEMENT: I certify that I have read and understand the Oregon Administrative Rule which pertains to special assessment of historic property, that this application and the attachments accurately represent the property to be specially assessed. I agree to grant access for the viewing of the property by the State Historic Preservation Officer, the State Historic Preservation Office's staff, and the Historic Advisory Review Committee. I declare under the penalties for false swearing as contained in ORS 162.085 that I have examined this application; and to the best of my knowledge, it is true, correct, and complete.

Applicant's Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**Figure 4.8** Special Assessment Application Form as Revised in 1995. Source: Special Assessment Files, State Historic Preservation Office.

The Historic Assessment Review Committee created under Senate Bill 588 became responsible for reviewing and certifying eligibility of all new Special Assessment applications. The Review Committee, along with county assessors, landmark commissions, and local governments, was given the authority to request SHPO disqualify properties if a preservation or renovation plan was not being implemented as expected. The composition of the review committee was to represent the SHPO, county assessors, and local preservation organizations and meet on an as-needed basis.<sup>173</sup> Because it was

<sup>173</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1995), ORS 358.511.

largely intended to resolve individual property disputes, the Committee is not discussed in any great detail in the remainder of this thesis.

The bill clarified the issue of second terms that first surfaced in 1990. Commercial properties could apply for a second term if the application was “accompanied by a renovation plan detailing measures to be taken for purposes of Americans with Disabilities Act compliance, seismic improvement measures or energy conservation measures, the costs associated with the measures and a schedule of the dates on which work on the measures will be begun and completed.”<sup>174</sup> No specific minimum amount of investment was required for first or second terms, but significant rehabilitation expenses were expected to be outlined in preservation and renovation plans. Residential properties remained ineligible for second terms. The revised program authorized by Senate Bill 588 was set to sunset on July 1, 2002, if not reauthorized by the legislature.<sup>175</sup>

Additionally, the revised bill contained an expanded section on measurable objectives accomplished by Special Assessment. Although lengthy, the “Policy” read:

The Legislative Assembly hereby declares that it is in the best interest of the state to maintain and preserve properties of Oregon historical significance.<sup>176</sup> Special assessment provides public benefit by encouraging preservation and appropriate rehabilitation of significant historic properties. These historically significant portions of the built environment contain the visual and intellectual record of our irreplaceable cultural heritage. They link us with our past traditions and values, establish standards and perspectives for measuring our present achievements and set goals for future accomplishments. To the extent that Oregon’s special assessment program encourages the preservation and appropriate rehabilitation of significant historical property, it creates a positive partnership between the public good and private property that promotes economic development; tourism; energy and resource conservation; neighborhood, downtown, and rural revitalization; efficient use of public infrastructure; and civic pride in our shared historical and cultural foundations.<sup>177</sup>

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<sup>174</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1995), ORS 358.475-565.

<sup>175</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1995), ORS 358.475-565.

<sup>176</sup> This first sentence served as the entirety of the “Policy” from 1975-1993.

<sup>177</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 1995), ORS 358.475.

It is important to note that in 1997, a bill was passed clarifying the benefit for second terms for commercial properties. Because of a drafting error in 1995, many commercial owners applied for second terms believing the frozen value for the second term would continue the value of the first term. The 1997 clarification explicitly stated that property be reassessed at the time of reapplication. The bill, Senate Bill 1215, passed.<sup>178</sup>

### Ballot Measures 47 and 50

In November 1996, voters approved Ballot Measure 47, an initiative that was redrafted by the legislature and returned to voters in 1997 as Measure 50. For simplicity's sake, this thesis will only explain Measure 50. The measure essentially intended to further "cut and cap" property taxes by setting permanent rates for each taxing jurisdiction based on the going rate prior to the Measure's passage.<sup>179</sup> In many cases these rates were artificially low based on outside sources of state and federal funds available to local governments at the time. The Measure also eliminated the requirement that properties be reappraised every six years. Most significant to this thesis, the Measure significantly redefined the calculation for determining the taxable basis of property. Measure 50 instituted a Maximum Assessed Value (MAV) for all properties, equal to their 1995-96 Real Market Value (RMV) minus 10 percent. Additionally, beginning in 1998 the MAV was to be calculated on an annual basis as 103 percent of a property's MAV from the prior year. In the event that RMV dropped below MAV, the measure directed the RMV be used to calculate taxes. Because not all properties were reappraised at the time Measure 50 passed, MAV could be higher or lower for properties with similar market values depending on their last appraisal date in the former six-year cycle. This inequity has remained between many comparable properties due to the mandatory limitation of assessed value growth.<sup>180</sup>

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<sup>178</sup> State of Oregon, State Historic Preservation Office, *1998 Legislative Report on the Special Assessment of Historic Property Program* (Salem, OR: State of Oregon, 1998).

<sup>179</sup> State of Oregon, *2007 Report on the Health of the Oregon Property Tax System*, 2.

<sup>180</sup> State of Oregon, *2007 Report on the Health of the Oregon Property Tax System*, 2, 9.

While the intent of Measure 50 was to limit the growth of property taxes owed by property owners, a few exceptions allow for some non-limited growth in MAV. For property owners performing ongoing maintenance, making minor repairs, or engaging in minor construction, the MAV does not change to reflect the increased market value of the property. However, construction that has a real market value of \$10,000 or more in a single year or an accumulated value of \$25,000 over five years can lead to an increase the MAV. Construction that meets either of these thresholds without being considered ongoing maintenance is considered non-minor in nature and triggers an increase to the existing MAV. Permits are used to determine the type and value of building activities. The MAV of exceptions such non-minor construction is calculated using a dynamic number termed the Changed Property Ratio (CPR). The CPR is calculated annually by each county assessor and is equal to the MAV of all properties divided by the RMV of all properties within the same county. The CPR is calculated for each property class (residential, commercial, etc.). For example, the permit value of non-minor construction is multiplied by the CPR then added to the property's existing MAV to yield the new MAV.<sup>181</sup>

Measure 50 had a direct impact on the way in which Special Assessment was both calculated and reassessed at the end of the frozen period. According to the *Board of Property Tax Appeals Manual*, new terminology was requisite for participating Special Assessment properties to be in compliance with Measure 50.

In addition to real market value and maximum assessed value, specially assessed properties have two additional values. They are the specially assessed value (SAV) and the maximum specially assessed value (MSAV). SAV is the value obtained by applying the specially assessed statutes appropriate for the property type. The 1997-98 MSAV for specially assessed properties was calculated by reducing the 1995-96 SAV by 10 percent. MSAV may be increased or recalculated under certain circumstances. Under current law, MSAV equals the greater of 103 percent of the assessed value for the preceding tax year or 100 percent of the maximum assessed value for the preceding tax year.<sup>182</sup>

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<sup>181</sup> State of Oregon, Oregon Department of Revenue, *Board of Property Tax Appeals Manual* (Salem, OR: State of Oregon, 2011), 7.1-7.3.

<sup>182</sup> State of Oregon, Oregon Department of Revenue, *Board of Property Tax Appeals Manual*, 7.6.

A thorough description of this calculation will be provided in Chapter V, but it is significant to note that beginning in 1998, properties disqualified from Special Assessment by disqualification or ending of their 15-year terms were reassessed by a multiplying of their RMV by the CPR at the time of disqualification.<sup>183</sup> This formula has been applied to all properties rolling off of special assessment from 1998 through the time of writing this thesis.

Measure 50 complicated the Special Assessment Program, but in a much more direct way than did Measure 5. Because the measure effectively capped assessed value growth at three percent a year, the perceived benefit of Special Assessment became a savings of only three percent each year, unless a non-minor improvement was made to the property which would result in a greater savings during enrollment. At the time of Measure 50's passing, properties participating in Special Assessment were given MSAV and their assessed values adjusted accordingly.<sup>184</sup> This equation will be further explained in greater detail in Chapter V to show the complexity and unknowns facing eligible property owners.

### **1998-2008 A “BROKEN” SPECIAL ASSESSMENT**

A year following the passage of Measure 50, the SHPO published the “1998 Legislative Report on the Special Assessment of Historic Property Program,” an eight page document that provided an overview of the substantial programmatic and external changes that came out of the previous five years. The report concluded that,

It is apparent that the Special Assessment benefit has been substantially weakened as a tool to aid in the preservation and rehabilitation of Oregon's historic properties. Event though the program has helped save many places of great historic value, many similar properties remain in need of assistance. Important historic properties throughout the state are deteriorating because owners cannot afford the costs involved in rehabilitation. The special assessment benefit now only has real value to owners who are planning major rehabilitation efforts which will occur in relatively short time frames and for which funding has been secured. For

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<sup>183</sup> After the passage of Measure 50, properties enrolling in Special Assessment were assigned an SAV by multiplying the property's RMV by the CPR and the Internal Ratio. This will be explained in the chapter that follows.

<sup>184</sup> Gregg Thummel, interview by author, Salem, OR, February 23, 2011.

owners with more limited resources who need to phase projects over an extended period, the benefit will be of lesser value.<sup>185</sup>

Although even the Program's administrators were admitting that Special Assessment was crippled, opposition to the revised program continued to surface. In 1998 yet another outright challenge to Special Assessment appeared. Representative Bill Witt introduced House Bill 2344 to prematurely sunset the Program at the end of the calendar year. Although the bill ultimately did not pass, a response by then-architecture critic Randy Gragg in the *Oregonian* provided many property owner perspectives at the time it was being considered. Drawing on comments from historic homeowners, downtown developers, and preservation consultants, Gragg's article provides an editorial perspective on the Program's strengths and weaknesses in relation to the recent ballot and statutory changes. The property owners interviewed for the article spoke of overcoming significant rehabilitation hurdles to see historic properties preserved in large part due to their participation in Special Assessment. Ultimately, the property case studies highlighted in Gragg's article showed that, "In each case, the special assessment played a key role, from leveraging bank loans for first-time condo buyers to helping offset the costs of an expensive restoration paint job."<sup>186</sup>

In 2000, SHPO convened a working group to again reexamine the opportunities and challenges presented by the Special Assessment Program. The group generally acknowledged that the Program was broken due to the factors discussed in the previous sections and offered too minimal of savings to justify the onerous new reporting and rehabilitation requirements. In consultation with SHPO, the group drafted a bill that contained three elements: 1) a revised Special Assessment, 2) a new income tax credit program, and 3) the implementation of a revolving loan program. Under the proposal, property owners could choose from one of the three incentives. The 20 percent tax credit was quickly dropped from the proposed language, but the detailed recommendations for

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<sup>185</sup> State of Oregon, State Historic Preservation Office, *1998 Legislative Report on the Special Assessment of Historic Property Program*, 7.

<sup>186</sup> Randy Gragg, "Dark Days of Preservation," *The Oregonian*, February 7, 1999.



modifications to Special Assessment remained for consideration in the following year's legislative session.<sup>187</sup>

When the legislature convened for the 2001 session, the Special Assessment Program was renewed, with minimal changes. One of the most interesting, albeit somewhat trivial, came in the form of a minor revision to the Policy section, in which the words "Special Assessment" were replaced with "historic preservation incentive programs."<sup>188</sup> Although the originally proposed income tax credit did not gain traction, it is possible this minor change was intended to set precedence for future incentive alternatives. Other changes included the year-round acceptance of applications, with the Special Assessment period beginning on July 1 of the year following that in which application was made. The bill established a sunset date of July 1, 2010, and required SHPO to draft Administrative Rules defining minimum standards of rehabilitation for commercial properties applying for second terms.<sup>189</sup> Other than those minor changes, the Program was changed little from the language that had been approved in 1995.

In 2005, the *Oregonian* ran an article by Betsy Hammond titled "Oregon's Desire to Preserve Classic Buildings Gives Affluent Property Owners Steep Tax Breaks Worth Millions of Dollars." A number of informants to this thesis referenced this article, even though its publication was five years prior to the start of my research. Although the 1,500-word article largely just detailed the specifics of the Program, its leading argument was that Special Assessment serves as "a way for savvy investors and developers and wealthy homeowners to reap huge tax savings on highly desirable buildings that likely would be preserved even if taxed at a normal rate."<sup>190</sup> The article identified that in 2005, Special Assessment led to the loss of \$6.5 million of property tax revenue in Portland. That compared to the \$200 million in revenue deferred due to all special assessments and

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<sup>187</sup> State of Oregon, State Historic Preservation Office, *2000 Legislative Report on the Special Assessment of Historic Property Program*, 6-8; A loan program was supported and will be discussed near the end of this chapter.

<sup>188</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2001), ORS 358.475.

<sup>189</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2001), ORS 358.475-358.565.

<sup>190</sup> Betsy Hammond, "Oregon's desire to preserve classic buildings gives affluent property owners steep tax breaks worth millions of dollars," *The Oregonian*, November 13, 2005.

exemptions in Multnomah County.<sup>191</sup> Similar critical articles and editorials appeared in the *Oregonian*, *Willamette Week*, and *Bend Bulletin* in late 2005 and early 2006.

The editorials were likely provoked by a 2005 proposal to allow for second term applications for residential properties. Although commercial properties had been eligible to apply for second terms since 1995, residential properties were specifically excluded from this opportunity. The legislature acted in 2005 despite the negative press, allowing cities and counties to pass resolutions permitting the second term applications of residential properties in their jurisdictions that prepare renovation plans as required of commercial second term applicants. Cities and counties that did not pass an ordinance or resolution explicitly allowing second term applications for residential properties were not subject to any increased applicability of the Special Assessment Program.<sup>192</sup> According to a fact sheet on file in the SHPO, as of 2009, 29 jurisdictions had passed an ordinance or resolution allowing for second term applications for Special Assessment. Although commercial properties were automatically granted second terms, several of these 29 communities specially approved second terms for commercial in addition to residential properties.<sup>193</sup> The second term allowance took effect on January 1, 2006.<sup>194</sup>

Even though minor adjustments were made to the Program in 2001 and 2005, 2007 brought another round of legislative scrutiny to the Special Assessment Program. According to a Portland *Daily Journal of Commerce* article, “The passing of time itself has created issues with the program. One downside is that when properties in areas where home values have increased dramatically—like Hood River—end their participation, owners are hit with high higher tax bills that they would have been if they’d never

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<sup>191</sup> Betsy Hammond, “Oregon’s desire to preserve classic buildings gives affluent property owners steep tax breaks worth millions of dollars.”

<sup>192</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2005), ORS 358.541.

<sup>193</sup> Susan Haylock, “Special Assessment of Historic Properties Program, Second Term,” Special Assessment Files, State Historic Preservation Office, Salem, OR; The jurisdictions that passed ordinances or resolutions to allow second terms were: Albany, Bend, Coburg, Coos Bay, Cottage Grove, Corvallis, Dayton, Eugene, Gearhart, Grants Pass, Independence, Jacksonville, Joseph, Klamath Falls, Lake Oswego, McMinnville, Medford, Monmouth, Oregon City, Oakland, Prineville, Roseburg, Salem, Scio, Springfield, St. Helens, The Dalles, Clackamas County, and Hood River County.

<sup>194</sup> State of Oregon, State Historic Preservation Office, *Special Assessment of Historic Property Program Fact Sheet* (Salem, OR: State of Oregon, 2005), 1.

entered the program.”<sup>195</sup> Even with revisions, Measure 5 and Measure 50’s impact still weighed on perceptions of Special Assessment’s benefit and anecdotal evidence suggested the Program was unnecessarily penalizing many compliant property owners at the end of their 15-year period. Anticipating the 2010 sunset of the Program, the legislature passed Senate Bill 416 in 2007 calling for a comprehensive Task Force review of Special Assessment with a report of recommendations to be submitted to the Governor in advance of the 2009 legislative session.<sup>196</sup>

Sponsored by Senator Vicki Walker, Senate Bill 416 “was a response to reports in the *Oregonian* that the tax break delivered most of its benefits to affluent Oregonians,” according to a June 2007 article by the same newspaper.<sup>197</sup> Of significant philosophical consequence was the addition of the following language as a direct response to the concept of economic inequity: “A governing body may exclude certain districts or properties from participation in the special assessment program under criteria established by the governing body. In adopting criteria, the governing body shall consider whether a district is in economic distress and the value of the property in the district.”<sup>198</sup> The bill specified the composition of the earlier mentioned Task Force, including mandatory representatives from the legislature, preservation field, and development community.<sup>199</sup> The Task Force was to research and consider eleven areas of study, ranging from the effectiveness of the Program, to the application fee structure, to the negative consequences of Measures 5 and 50, to the role of and fiscal impact to local

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<sup>195</sup> Allison Ryan, “Oregon Takes Modern Look at Historic Properties,” *Portland Daily Journal of Commerce*, February 8, 2008.

<sup>196</sup> John Tess, et. al., “Report of the Task Force on Historic Property,” (Salem, OR: State Historic Preservation Office, 2008), 1.

<sup>197</sup> Edward Walsh, “Legislative Roundup: Property Tax Breaks for Mansions may be Gone,” *The Oregonian*, June 16, 2007.

<sup>198</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2007), ORS 358.487.

<sup>199</sup> The Task Force members were as follows: John Tess (chair), Gregg Thummel (vice chair), Senator Vicki Walker, Representative Brian Clem, Mary Oberst, Roger Roper, Dr. Stephen Poyser, Mark Edlen, Barbara Sidway, Ron Northcraft, Nicholas Starin, and Anne Catlin.

governments.<sup>200</sup> At the first meeting of the Task Force, Deputy State Historic Preservation Officer Roger Roper, detailed the purpose of the Task Force:

To either find a way to make the program more efficient, effective, and accessible, or come to a conclusion that the program was no longer viable. He said the members could also discuss options for alternate incentive programs. He suggested the task force may want to come up with a revamp of the whole program, one they feel is sellable to everyone rather than try and tweak the current statute and rules to create a fix.<sup>201</sup>

The Task Force met throughout 2008—and, in an advisory and steering capacity in early 2009—to prepare a report to the Governor before the start of the 2009 legislative session. The final “Report of the Task Force on Historic Property” was published October 1, 2008. Due to the inherent complexities and benefit calculation difficulties, the Task Force recommended the continuation of the Program for commercial properties only. For residential properties, the Task Force recommended a new Property Tax Reduction Program in an amount equal to a 40 percent reduction in assessed value. Commercial properties could apply for a 50 percent reduction if they opted not to participate in Special Assessment. Reduced application fees, required deed recording, elimination of the open house requirement, and project reviews were also recommended. Secondly, executive orders supporting preservation and a state income tax credit for rehabilitation were directed.<sup>202</sup>

The language of the report was quickly packaged into a legislative concept, Legislative Concept 712, and modified for review by the legislature in October 2008. With signs of economic downturn becoming apparent across the state and the Special Assessment Program set to expire if not reauthorized in 2009, the future of the incentive was up in the air as the hard copies of the report began to reach the desks of legislators.<sup>203</sup> In late October, as reflected in the minutes of the Task Force, direct challenges to the

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<sup>200</sup> Special Assessment of Historic Property, Senate Bill 416, Oregon Senate, (2007).

<sup>201</sup> “Taskforce on Historic Property Meeting Minutes,” February 13, 2008, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>202</sup> John Tess, et. al., “Report of the Task Force on Historic Property,” 1-22.

<sup>203</sup> “Taskforce on Historic Property Meeting Minutes,” September 26, 2008, Special Assessment Files, State Historic Preservation Office, Salem, OR.

recommendations outline in the report began to mount.<sup>204</sup> Although not exactly those recommended by the Task Force, the 2009 legislative session would bring some of the most direct changes to the Special Assessment legislation since its inception.

## **2009-2011 A REDUCED SPECIAL ASSESSMENT**

On January 15, 2009, an amended legislative concept reauthorizing Special Assessment Program was introduced to the Senate as Senate Bill 192. The introduced legislation maintained the 15-year terms for participating properties and set a sunset date of July 1, 2025. Additionally, the introduced bill removed the open house requirement, changed the application fee structure, and most-significantly, redefined the benefit calculation in accordance with the Task Force recommendations. According to the text of Senate Bill 192, as introduced, “If the property is a residential historic property, the assessed value of the property shall equal 60 percent of the maximum assessed value of the property. If the property is a commercial historic property, the assessed value of the property shall equal 50 percent of the maximum assessed value of the property.”<sup>205</sup> Furthermore, the bill made provisions such that “the owner may apply for an indeterminate period partial exemption” at the end of participation in the program as a mechanism to avoid the RMV and CPR-based reassessment required by Measure 50.<sup>206</sup> Finally, the bill gave local jurisdictions the ability to opt-out of the revised program, but by default opted in all jurisdictions.<sup>207</sup> On January 21, the bill was sent to committee for review.<sup>208</sup>

During March, April, and May, the Senate Committee on Finance and Revenue made numerous amendments to Senate Bill 192. One of the first changes was the removal

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<sup>204</sup> “Taskforce on Historic Property Meeting Minutes,” October 24, 2008, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>205</sup> Senate Bill 192, introduced, 75th Oregon Legislative Assembly (2009), <http://www.leg.state.or.us/09reg/measures/sb0100.dir/sb0192.intro.html> (accessed May 9, 2011).

<sup>206</sup> Senate Bill 192, introduced, 75th Oregon Legislative Assembly (2009).

<sup>207</sup> Senate Bill 192, introduced, 75th Oregon Legislative Assembly (2009).

<sup>208</sup> The Oregonian, “Senate Bill 192: Measure Activity,” OregonLive, <http://gov.oregonlive.com/bill/2009/SB192/> (accessed May 1, 2011).

of the partial exemption language that made the legislative concept significantly different from the existing program. Another significant change came in the form of a reduction of the special assessment period from 15 to 10 years. An accountability amendment required the expenditure of at least 10 percent of the real market value of the property on rehabilitation activities within the first five years. Numerous semantic changes to language about the calculation of the assessed value were also inserted into the amended bill, a few of which affected the calculation of benefit for condominiums and second-term applicants. Insurance requirements, local landmark commission review, three year progress reporting, and a reduced application fee structure were also made part of the bill. The second term renovation plan and first term preservation plans were folded into the same document, a preservation plan, required for both first and second term applicants.<sup>209</sup> Finally, the amendments altered the proposed sunset date of 2025 to 2020.<sup>210</sup> Public hearings and work sessions were held in the late spring, but the amendments were made part of Senate Bill. The Senate supported the bill with a vote of 22-6 on June 12, and the House did the same with a vote of 47-12 on June 24. The amended program was signed by Governor Kulongoski on August 4 and made effective on September 28, 2009.<sup>211</sup>

Once Senate Bill 192 became effective, all properties enrolling in the program were relieved of their annual open house duties, despite the requirement being effective in the year in which the applications had been made. Similarly, local governments were made the compliance decision-makers on Special Assessment rehabilitation projects for all properties enrolled in the Program within their jurisdiction.<sup>212</sup> A copy of the application form drafted in 2009 and still in use as of this writing is included as Figure 4.9. Chapter V explains the changed formula for second term applicants resulting from

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<sup>209</sup> Properties that had already completed one term in the program still needed to show that seismic, sustainability, or accessibility goals were being met by the proposed work to be eligible for second terms.

<sup>210</sup> Senate Bill 192, amended, 75th Oregon Legislative Assembly (2009), <http://www.leg.state.or.us/09reg/measures/sb0100.dir/sb0192.1sa.html> (accessed May 3, 2011).

<sup>211</sup> Senate Bill 192, introduced, 75th Oregon Legislative Assembly (2009).

<sup>212</sup> Local government design review purview is conditioned on local government certification and correspondence with SHPO.

the interpretation of Senate Bill 192. In 2010, 23 properties entered the program and, as of February 2011, 12 properties were on-track to enter the program in 2011.<sup>213</sup>

SPECIAL ASSESSMENT OF HISTORIC PROPERTY PROGRAM Application Form/Certification							
<p><b>Instructions:</b> Please fill out the form completely. Type or print in ink. Be sure to read the paragraph above the signature line before signing. Submit this form along with the Preservation Plan and all supplementary material as indicated on the enclosed checklist. <b>Incomplete applications will be returned.</b></p>							
<p><b>1. Property Information:</b>            Historic Name of Property: _____            Property Address:            Street: _____            City: _____ County: _____ Zip: _____            National Register District and rank (if applicable): _____            Date Listed on the National Register: _____</p>							
<p><b>2. Property Tax Information:</b>            Tax Account Number: _____ Does owner reside in property? <input type="checkbox"/> Yes <input type="checkbox"/> No            Current Assessed Value: \$ _____ Current Real Market Value (RMV): \$ _____            Application Fee (Assessed Value x .001): \$ _____</p>							
<p><b>3. Preservation Plan Overview:</b>            Current Use: <input type="checkbox"/> Residential <input type="checkbox"/> Res./Multi-family <input type="checkbox"/> Commercial <input type="checkbox"/> Agricultural <input type="checkbox"/> Industrial            FIRST TERM: <input type="checkbox"/> SECOND TERM: <input type="checkbox"/>            Estimated Cost of Rehabilitation:            \$ _____</p>							
<p><b>4. Owner Information:</b>            Owner Name: _____ Organization/business: _____            Address: _____ City: _____            State: _____ Zip: _____            Phone: _____ E-mail: _____            Representative: _____ Phone: _____</p> <p>I certify that I have read and understand that this application and any attachments accurately represent the property to be specially-assessed. I agree to grant access for the viewing of the property by the State Historic Preservation Officer, the State Historic Preservation Officer's staff, and the Historic Assessment Review Committee.</p> <p>Owner Signature _____ Date _____</p>							
<p><b>SHPO Use Only</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;"> </td> <td style="padding: 2px;"> <b>Application submission received and reviewed:</b>            _____            SHPO Authorized Signature and Date         </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="padding: 2px;"> <b>Property is approved for Special Assessment:</b>            _____            SHPO Authorized Signature and Date         </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="padding: 2px;"> <b>Date Special Assessment Begins:</b> _____ <b>Date Special Assessment Ends:</b> _____         </td> </tr> </table>			<b>Application submission received and reviewed:</b> _____ SHPO Authorized Signature and Date		<b>Property is approved for Special Assessment:</b> _____ SHPO Authorized Signature and Date		<b>Date Special Assessment Begins:</b> _____ <b>Date Special Assessment Ends:</b> _____
	<b>Application submission received and reviewed:</b> _____ SHPO Authorized Signature and Date						
	<b>Property is approved for Special Assessment:</b> _____ SHPO Authorized Signature and Date						
	<b>Date Special Assessment Begins:</b> _____ <b>Date Special Assessment Ends:</b> _____						

**Figure 4.9** Special Assessment Application Form as Revised in 2009. Source: Special Assessment Files, State Historic Preservation Office.

<sup>213</sup> Susan Haylock, “Special Assessment of Historic Property Tax Benefit Program: Summary of SB 192 – Enrolled Version,” 2009, Special Assessment Files, State Historic Preservation Office, Salem, OR; Susan Haylock, “Role of Local Governments In the Revised (2009) Special Assessment of Historic Property Program,” 2010, Special Assessment Files, State Historic Preservation Office, Salem, OR; State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

## ALTERNATIVE INCENTIVE PROGRAMS IN OREGON

Although Special Assessment is Oregon's only legislatively supported incentive program for all private owners of historically significant buildings, a number of other programs exist in Oregon to encourage the maintenance, rehabilitation, and preservation of historic buildings. Although not a definitive list, a few of the alternative programs employed in Oregon in 2011 are described here.<sup>214</sup>

### Loans

Several local jurisdictions in Oregon offer low-interest revolving loans for historic preservation, however, most offer only minimal loan awards. Eugene, for example, has allocated general fund and federal Community Development Block Grant monies to support its revolving loan fund since 1976. Since the early 1990s, loan amounts for historic buildings have ranged from \$5,000 to \$20,000, contingent upon approval by the Eugene Historic Review Board. Loans, ranging from one to six percent interest rate, can be used for restoration, rehabilitation, repair, and maintenance of designated historic properties in any part of the city. Since 1976, \$330,000 has been loaned in Eugene.<sup>215</sup> Other jurisdictions around Oregon offer similar loan funds, but large discrepancies in funding, interest rate, and requirements exist between each of them.

At the state level, a Historic Preservation Revolving Loan Fund has been established by the legislature "to provide loans to owners of historic property."<sup>216</sup> While the Fund is entered into Oregon Revised Statutes, monies have not been made available for the operation of the Fund and no loans have been made as of this writing.<sup>217</sup>

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<sup>214</sup> The Federal Historic Preservation Tax Incentive was discussed briefly near the beginning of this chapter and therefore does not need repeating here.

<sup>215</sup> Eugene Planning and Development, "Historic Loan Program," City of Eugene, [eugene-or.gov/portal/server.pt/gateway/PTARGS\\_0\\_2\\_359439\\_0\\_0\\_18/Historic%20Loan%20Program.pdf](http://eugene-or.gov/portal/server.pt/gateway/PTARGS_0_2_359439_0_0_18/Historic%20Loan%20Program.pdf) (accessed April 15, 2011).

<sup>216</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2009), ORS 358.664, 358.676, 358.955.

<sup>217</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2009), ORS 358.664, 358.676, 358.955.



## Conservation Easements

Since 1981, the Historic Preservation League of Oregon has managed a conservation easement program to offer perpetual protection to historic properties around the state. Although the program involves the donation of a property's façade, significant landscape, or interior to the League in the form of an easement, it also entitles owners of National Register properties to income tax deductions, as well as reductions in estate, gift, and capital gain tax. As of 2011, 42 easements had been donated to the League.<sup>218</sup>

## Grants

Numerous local governments in Oregon offer small preservation grants to encourage the rehabilitation of properties listed as local landmarks or on the National Register. Forest Grove, for example, offers a Historic Preservation Renovation Grant for exterior or structural work performed on National Register listed buildings. Grants are awarded for up to \$3,000, with a property owner match of at least 50 percent required. In the Forest Grove case, grant applications are accepted year-round and recipients are given free design advice from the Historic Landmarks Board.<sup>219</sup> Like revolving loan funds, local grant programs differ from municipality to municipality.

At the state level, after the passage of Measure 66 in 1998 the Oregon Legislature began allocating significant amounts of money (\$118,000-250,000 per biennium) for a Preserving Oregon Grant program. Although the grant program is competitive and gives preference to government and nonprofit owned historic resources, private property owners are eligible to apply. The first of the matching grants were allocated in 2000 and have been offered every biennium since with grant proposals due in the late summer of odd-numbered years.<sup>220</sup>

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<sup>218</sup> Historic Preservation League of Oregon, "Historic Conservation Easements," Historic Preservation League of Oregon, <http://www.historicpreservationleague.org/easementsAbout.php> (accessed February 1, 2011).

<sup>219</sup> City of Forest Grove, "Historic Preservation Renovation Grants," City of Forest Grove, <http://www.forestgrove-or.gov/images/stories/government/boards/landmarksboard/documents/Renovation%20Grant%20Application%202010.pdf> (accessed May 2, 2011).

<sup>220</sup> Oregon State Parks, "Spring 2001 Progress Report," State of Oregon, <http://www.oregonstateparks.org/images/pdf/progress4.pdf> (accessed April 16, 2011).

## Tax Increment Financing

In 1951, the Oregon legislature enabled housing authorities to function as urban renewal agencies, permitting them to access federal money and generate local funding streams to support bricks and mortar projects. In 1957, city councils and county commissions were granted similar authority, so long as the urban renewal areas were comprised of blighted neighborhoods and districts in need of additional public and private investment.<sup>221</sup> In addition to infusions of state and federal money, since 1957 cities and counties have carried out urban renewal by use of a mechanism known as tax increment financing (TIF). According to a policy paper prepared for the Portland Development Commission,

The concept of TIF is simple. Tax revenue generated by the incremental increase in value (“increment”) in the renewal area can be used to pay for improvements in the area being renewed. Once an urban renewal boundary is defined, the county assessor “freezes” the assessed value of real property within the urban renewal district. When property values go up as a result of investment in the area or appreciation, the taxes on the increase in the assessed value above the frozen base are used to pay for the improvements in the urban renewal area. In the long term, the increment goes back at full value onto the tax rolls, from which all taxing districts benefit.<sup>222</sup>

Although TIF monies had been used to fund the wholesale demolition of historic buildings and neighborhoods in cities like Portland and Eugene during the 1960s and 1970s, in recent decades urban renewal has assisted in the rehabilitation of buildings in downtowns and Main Streets across Oregon. An example of this is included in the Pendleton case study in Chapter V. As of 2007, there were 55 urban renewal agencies administering 84 urban renewal areas across Oregon.<sup>223</sup>

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<sup>221</sup> Nina Johnson and Jeffrey Tashman, “Urban Renewal in Oregon: History, Case Studies, Policy Issues, and Latest Developments” (Portland, OR: Tashman Johnson, 2002), 5, [http://www.pdc.us/pdf/about/oregon\\_urban\\_renewal\\_history.pdf](http://www.pdc.us/pdf/about/oregon_urban_renewal_history.pdf) (accessed March 3, 2011).

<sup>222</sup> Johnson and Tashman, “Urban Renewal in Oregon,” 1-2.

<sup>223</sup> Oregon Department of Revenue, “Urban Renewal,” State of Oregon, <http://www.oregon.gov/DOR/PTD/docs/504-623.pdf> (accessed March 21, 2011).

## CONCLUSION

Between 1975 and 2009 significant changes were made to Oregon's Special Assessment of Historic Property Program. While the Program's impetus was just one part of a larger response to the demolition of historic buildings and an increasing social awareness of the value of historic preservation, the voices of responsible government and property tax limitation advocates began to coalesce against Special Assessment in the 1980s and 1990s. While Measures 5 and 50 were emblematic of a movement far more widespread than the individual and editorial criticisms made against the Program, their aftermaths have constrained the budgets of local governments and directly impacted Special Assessment. This transformation of the Special Assessment context unsurprisingly brought increased scrutiny and opposition to the Program, pitting historic preservation against schools and fire departments. The changes in the Program's requirements, as shown in the figures, sources, and descriptions included in this chapter, show the chronological transition of Special Assessment from a simple program to encourage the designation, retention, and rehabilitation of historic properties to a complex and bureaucratic rehabilitation process with variable benefits to property owners and governments due to tax limitation language. Between 1975 and 2010 the burden of proof for the Program's success increasingly moved from the holistic quality historic of buildings, neighborhoods, and places to the bottom lines of rehabilitation budgets and assessed value, not to mention the reduction of the program's length by a factor of one-third in 2009 and the ambiguity of the benefit left by the impact of Measures 5 and 50.

While too little time has elapsed to accurately forecast the exact impact of Senate Bill 192, the text of the bill, case studies, interviews, and descriptive statistics can provide evaluative tools to estimate whether or not the Program continues to provide an incentive to private property owners and governments to preserve historically significant buildings in 2011. The following chapter provides that evaluation, in addition to general evaluations of the incentive provided by the Program throughout its history.

## CHAPTER V

### EVALUATING THE SPECIAL ASSESSMENT PROGRAM

As introduced in Chapters III and IV, the requirements of incentive programs for historic preservation do not all share the same goals. As evidenced by the changes to Special Assessment, the goals of specific preservation incentive programs may even change over time. From routine maintenance, to a stay on demolition, to a significant rehabilitation expectation, to historically accurate restoration, the intended outcomes of incentive programs vary considerably. Ultimately, preservation incentive programs are tools for governments to achieve a societal good through encouraging private sector activities. According to Robert Stipe, an authority on preservation policy, “tax incentives are the indirect approach of providing preservation support. It is recognized that no preservation program can be totally dependant on public funding.”<sup>224</sup>

Generally, incentive programs for historic preservation have at least five purposes as stated in Chapter I. First, incentives create a contract between property owners and the public to ensure care and protection of significant private property in exchange for direct funding or deferred costs. Second, incentives counteract local land use policies that inadvertently –or in some cases intentionally—threaten historic properties. Third, incentives can stimulate the rehabilitation of underutilized or physically deficient historic properties. Fourth, incentives can level the development playing field, making historic preservation financially competitive with new construction. Finally, incentive programs provide compensation for the imposition of preservation regulations that create actual and perceived financial and bureaucratic hurdles for property owners.<sup>225</sup>

This thesis intends to identify if the Special Assessment Program provides an incentive for governments and property owners to preserve significant historic properties. The incentive offered by Special Assessment is understood through one or more (ideally all five) of the purposes listed above. For this thesis, the incentive is measured by the following areas of effectiveness:

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<sup>224</sup> Stipe, “State and Local Tax Incentives for Historic Preservation,” in Andrews, 94.

<sup>225</sup> Morris, *Innovative Tools for Historic Preservation*, 3.

1. Program participation in numbers and as a percentage of the eligibility pool
2. Expectations of enrollment (largely described in Chapter IV)
3. Length of participation and/or ability to foster continued stewardship
4. Financial benefit to owner
5. Property owner perspectives
6. Universality of Program in fostering participation from significant historic properties regardless of location or assessed value
7. Ability of other incentives to compliment (or compete with) the Program

Although local, state and the federal government provide various incentives to owners of historic properties, there are a number of perspectives from which any program can be evaluated. According to Joseph McGee, “the suggestion that such (historically or architecturally significant) properties should receive special tax treatment is apt to produce varied reactions depending on the point of view of the person to whom the proposal is made.”<sup>226</sup> Legislators, assessors, property owners, and the general public each hold their own perspectives on any public subsidy program, with ideological and political beliefs further defining the perspectives of different groups of individuals. An evaluation of the incentive provided by Special Assessment necessitates the identification of the participants whose perspectives by which I evaluate the Program. As stated in Chapter I, the perspectives of private historic property owners and governments in Oregon will be considered for this thesis. Although the general public, assessors, and legislators are discrete groups with differing perspectives, many of them will be collapsed into the perspective of government as an entity concerned with the best interests of the public.

This chapter is divided into four-parts evaluating the Special Assessment Program over the 1975 to 2010 period. This evaluation weaves together property owner and government perspectives and provides for qualitative and quantitative data to be considered together. The first section of this chapter investigates the changing equation used by property owners and assessors to determine the financial benefit provided by the Special Assessment Program. The section is divided by the different periods of the Program and includes descriptive formulas, hypothetical scenario graphs, and brief

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<sup>226</sup> McGee, “State and Local Taxation: Current Practices, Procedures, and Effects,” in Andrews, 102.

explanations of the accuracy, or lack thereof, of forecasting the financial benefit of the Program. The second section of this chapter provides case studies of five maximum variation cases of properties enrolled in Special Assessment over the history of the Program. These cases illustrate both typical and critical experiences of property owners and, as evidenced by one of the studies, governments as well. The studies include photographs and background to illustrate the historical significance of these participating properties. The third section presents four areas of original descriptive statistics highlighting rates of participation in the Program, average assessed value, a comparison to the Federal Historic Preservation Tax Incentive, and overviews of the tax expenditure attributed to the Program in recent years. The final section weaves together the previous sections and provides summative evaluations of the incentive provided to governments and property owners over the history of the Program.

### **THE CHANGING SPECIAL ASSESSMENT EQUATION**

In order to understand the incentive provided by Special Assessment, it is first necessary to chart the changes to the equation used to calculate the financial benefit of the Program for participants. Because the language of the program and the changing requirements were discussed in Chapter IV, this section will provide only brief calculations and hypothetical graphs for the different periods of the Special Assessment Program.<sup>227</sup> Because describing the equations requires an understanding of key terms, Table 5.1 provides brief descriptions of the acronyms used in this section. These and other key terms, abbreviations, and acronyms are included in Appendix A.

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<sup>227</sup> Please refer back to Chapter IV for contextual references. Note that the periods as described below are intended to show the benefit as calculated at that time of enrollment. Due to the passing of Measure 50, the benefit calculation changed in 1997 for properties that had enrolled in the program during an the period.

**Table 5.1** Key Terms and Acronyms Defined

AV	Assessed Value. The value subject to taxation. For Specially Assessed properties it is the lesser of the Real Market Value, Maximum Specially Assessed Value, or Specially Assessed Value. For properties not enrolled in the program, it is the MAV
CPR	Changed Property Ratio. An annual measurement of the total countywide Real Market Value divided by the total countywide Maximum Assessed Value for each property class. CPR differs by county and by year and never exceeds 1.
IR	Internal Ratio. The product of a property's Maximum Assessed Value divided by its Real Market Value.
MAV	Maximum Assessed Value. The maximum amount of value that can be subject to taxation under the conditions of Measure 50.
MSAV	Maximum Specially Assessed Value. The maximum value a property enrolled in Special Assessment can be taxed upon. The MSAV cannot be greater than the Specially Assessed Value or Real Market Value.
RMV	Real Market Value. The value at which a property could reasonably be expected to sell on the market. Real Market Value was originally termed True Cash Value.
SAV	Specially Assessed Value. For properties enrolled in the Program before 1997, the Specially Assessed Value was equal to the Real Market Value of the property at the time of application. For properties enrolled in the Program after 1997, the Specially Assessed Value was equal to the Maximum Assessed Value of the property at the time of application, and sometimes (as in the case of second term applicants since 2009) the Real Market Value.
Year 0	Year 0 is the year in which an eligible property makes application for Special Assessment.
Year 1	Year 1 is the first tax year in which a property participating in Special Assessment is enrolled in the Program.
Year 11	Year 11 is the first tax year for which a property participating in the Program does not receive Special Assessment (for properties entering Special Assessment after 2009).
Year 16	Year 16 is the first tax year for which a property participating in the Program does not receive Special Assessment (for properties entering Special Assessment before 2009).

1975-1990

From 1975 to 1990, properties enrolling in Special Assessment had their taxable values frozen at the “true cash value” (now known as RMV) for the year in which application was made. This taxable value would remain frozen for the fifteen years that followed. Although the assessed value was frozen for fifteen years, any changes in the countywide millage rate would cause a proportional change in the property tax owed by the property owner. Because the property's true cash value was frozen, neither

rehabilitation expenditures nor the regular six-year reassessment would lead to an increase in the taxable value.<sup>228</sup> The tax savings were dependant on both the increased improvement value (if any) and the amount the property's value increased naturally due to neighborhood or regional inflation. In some instances, especially during the late 1980s, the true cash value of properties dropped beneath the frozen value, leading to a negative financial benefit, the removal of some properties from the program, and a slight rewording of the Program's text to allow for compensation in such events.<sup>229</sup> Figure 5.1 shows a hypothetical graph of projected assessed value for properties enrolling in Special Assessment from 1975 to 1990. The graph assumes a 3 percent annual increase in true cash value and that no significant physical investment was made during the Special Assessment period beyond routine maintenance.<sup>230</sup> Obviously, any physical investment would increase the differential between Specially Assessed and true cash values beyond the compounded three-percent true cash value increase. The formula for calculating the benefit for the year following application to Special Assessment was as follows:

$$Year_1 \text{ property tax savings} = (Year_1 \text{ true cash value} \times Year_1 \text{ millage rate}) - (Year_0 \text{ true cash value} \times Year_1 \text{ millage rate})$$

This equation can be used for years 2 through 15, contingent on the year 0 true cash value remaining frozen and the other values being adjusted accordingly. Upon disqualification from Program after the 15 years of Special Assessment, the taxable value would increase to the year 16 true cash value of the property.

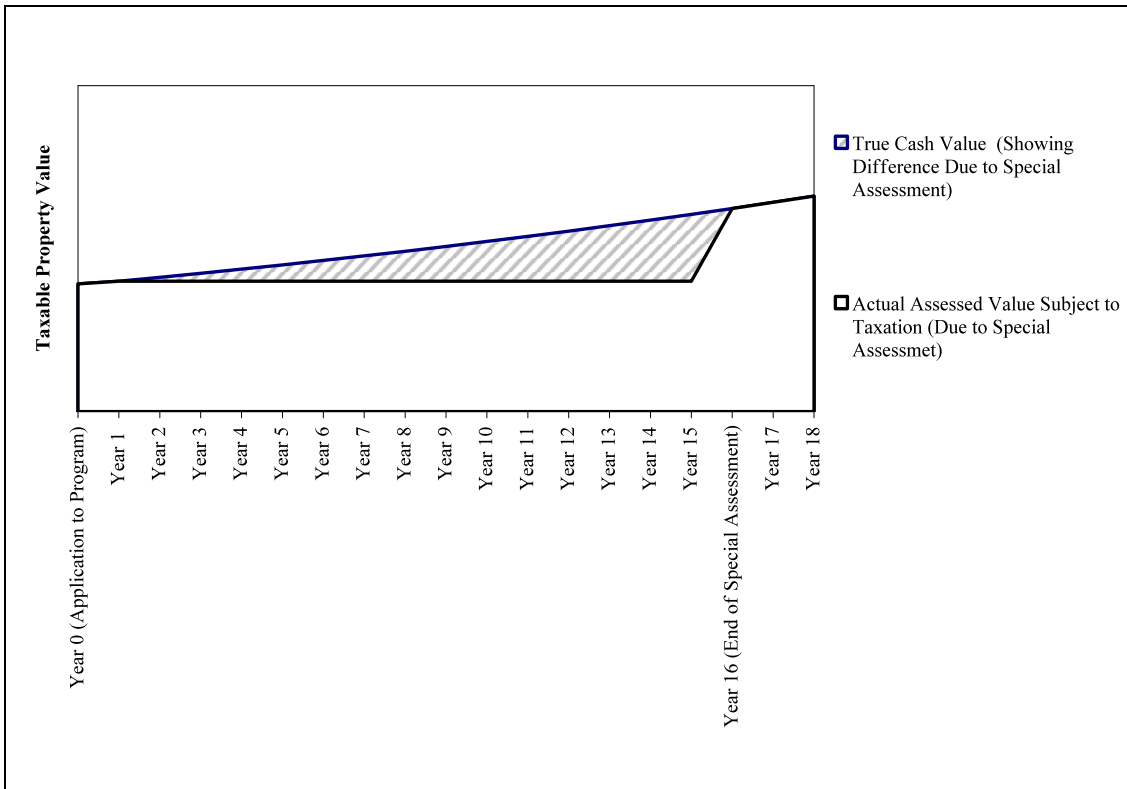
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<sup>228</sup> Until 1983, the value added by new construction did not increase the taxable value of the property. After 1983, new construction that was not historic reconstruction was exempt from Special Assessment.

<sup>229</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

<sup>230</sup> This graph is also applicable for the 1991-1994 period, but beginning in 1995 an increase in true cash value beyond the assumed 3 percent annual growth would be expected due to the new preservation and renovation plan requirements.





**Figure 5.1** Hypothetical Graph of Assessed Value Gap Resulting from Enrollment in Special Assessment During the 1975-1990 Period.

### 1991-1997

After the passage of Measure 5 in 1990, the benefit equation for Special Assessment remained essentially the same as in the period before. However, because local governments were restricted in their abilities to collect property tax due to the limitation on the millage rate, many property owners became aware that the Program could have a direct effect on the funding of community services.<sup>231</sup> Additionally, after 1995, renovation and preservation plans became a required component of application to the Program. Although minimum dollar investment levels were not prescribed, the plan requirements necessitated the promise of physical investment for a property to be accepted into the Program. Because physical improvements would lead to an increase in

<sup>231</sup> In an interview conducted for this thesis, a participating property owner repeated the story of a neighbor who decided against enrollment in the Program due to his/her impression that mitigating Measure 5 tax consequences, known as “compression,” was more socially important than receiving the Special Assessment benefit.

the true cash value, properties would, in theory, see a greater increase in true cash value over the course of participation in the Program and would therefore reap larger savings in property tax than if no investment had been made during the period. According to interviews conducted for this thesis, property owners typically invested significant rehabilitation dollars in their properties even before the plans became a requirement. Data on this was not tracked at the time.

Because neither Measure 5 nor the renovation/preservation plan requirement prescribed specific changes to the benefit equation, the calculation and graph presented in the last section can be used for computing the benefit during the 1990 to 1997 period.

### 1998-2009

The passage of Measure 50 drastically changed the formula for calculating the Special Assessment benefit. According to Cathy Galbraith, executive director of the Bosco-Milligan Foundation, the passage of Measure 50 is “when things began to change from a simple program to a complex and unpredictable incentive.”<sup>232</sup> As briefly discussed in Chapter IV, Measure 50 affected the benefit equation for eligible and participating properties alike. Since property owners who applied to the program prior to Measure 50 did so under the assumption of the old financial benefit calculation, their experiences will not be described in detail here.<sup>233</sup> The benefit calculations that follow have been extrapolated from the text of Oregon Revised Statutes and the Oregon Administrative Rules during the period.

For properties enrolling in the program after 1998, participants were assigned a Specially Assessed Value (SAV) that remained constant for years 1-15. The Specially Assessed Value is essentially the “frozen value,” and can be calculated using the following formula:

$$Year_1 SAV = Year_0 MAV$$

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<sup>232</sup> Cathy Galbraith, interview by author, Portland, OR March 4, 2011.

<sup>233</sup> When Measure 50 was passed, participating properties were given a Maximum Specially Assessed Value and their taxable assessed value adjusted accordingly. Upon completion of their 15-year Special Assessment, properties enrolled even before Measure 50 became subject to a Changed Property Ratio calculation to determine a new taxable assessed value.

Where MAV is the Maximum Assessed Value. The MAV is the taxable value assigned to all properties after the passage of Measure 50, and grows at no more than three percent a year unless an exception, such as non-minor construction, occurs.<sup>234</sup>

For the 15-year period, properties under Special Assessment could not be assessed taxes on a value greater than the SAV, the frozen value. Additionally, properties enrolling in Special Assessment were assigned a Maximum Specially Assessed Value (MSAV). The taxable value of a participating property would be calculated by the assessor as the lesser of the MSAV or SAV during each year of the 15-year period.<sup>235</sup> The MSAV could be calculated using the following formula:

$$Year_1 MSAV = Year_1 SAV \times Year_1 IR$$

Where IR is the Internal Ratio. The IR for any property can be determined by dividing the MAV by the RMV for the individual property. Essentially IR shows the difference between RMV and MAV on a case-by-case basis. For the Special Assessment calculation above, the following equation can be used:

$$Year_1 IR = \frac{Year_1 MAV}{Year_1 RMV}$$

In year 2 of Special Assessment and every year thereafter, participating properties were given a MSAV by use of the following formula:

$$Year_2 MSAV = Year_1 AV \times 1.03 \text{ or } Year_1 MSAV, \text{ whichever is greater}$$

Where AV is the Assessed Value. AV is determined by the following equation:

$$Year_1 AV = Year_1 SAV \text{ or } Year_1 MSAV \text{ or } Year_1 RMV, \text{ whichever is less}$$

In every tax year following year 2 the county assessor would determine a new MSAV on which taxes would be levied.

Although property owners could fairly accurately forecast the value on which taxes would be levied during their participation in the program using the calculations above, their MAV after enrollment could not be forecasted with any accuracy. For the first year in which a property is removed from Special Assessment, the assessor would determine a new MAV for assessing property tax. Because the entire property is viewed

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<sup>234</sup> Notwithstanding non-minor construction or a property “change,” MAV is limited to three-percent annual growth per Measure 50.

<sup>235</sup> Non-minor new construction, however, would trigger an increase in the MSAV and SAV in an amount equal to the value of the new construction.

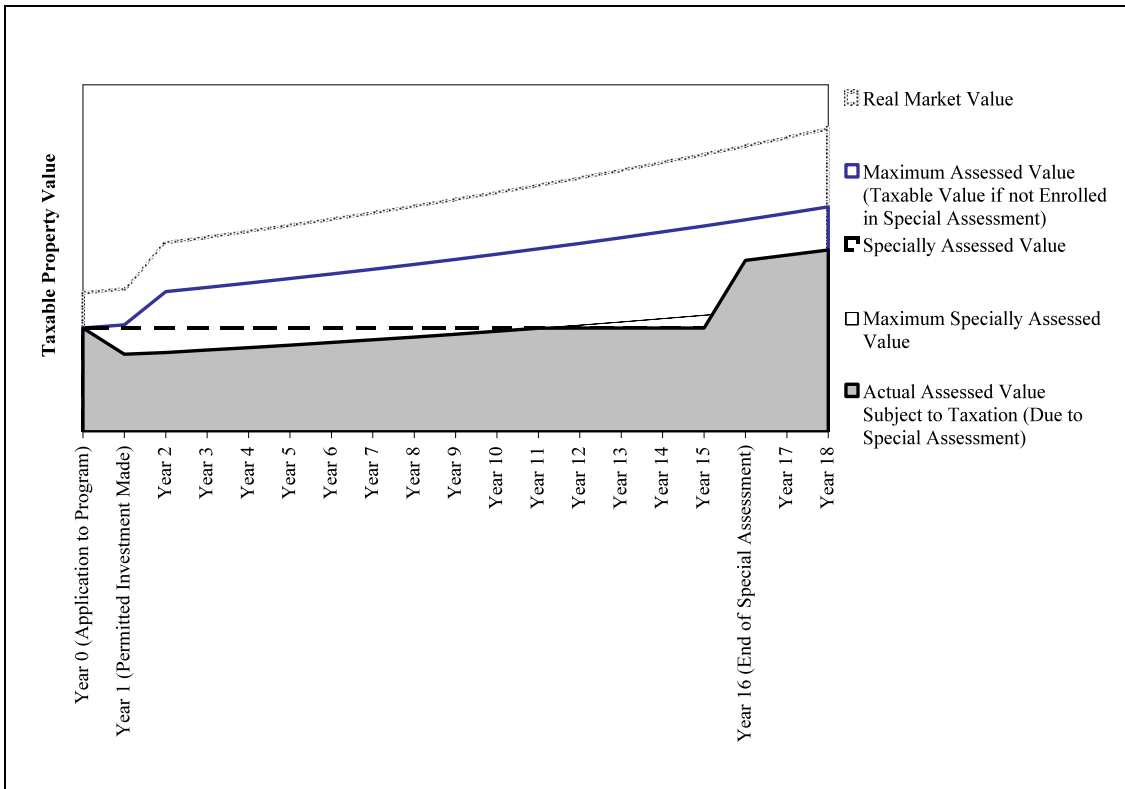
as an exemption at the time it rolls off of Special Assessment, the following formula is used by assessors to determine a new MAV after the period of Special Assessment:

$$Year_{16}MAV = \frac{Year_{16}RMV}{Year_{16}CPR}$$

Where CPR equals the countywide Changed Property Ratio for that class of property (residential, commercial, etc.). The CPR is a countywide average determined annually by the assessor. As explained in Chapter V, the CPR is the difference between the total RMV and the total MAV for that property class, county, and year. Since 1997, CPR has generally been on the decline, but the recession has caused it to increase in many cases.

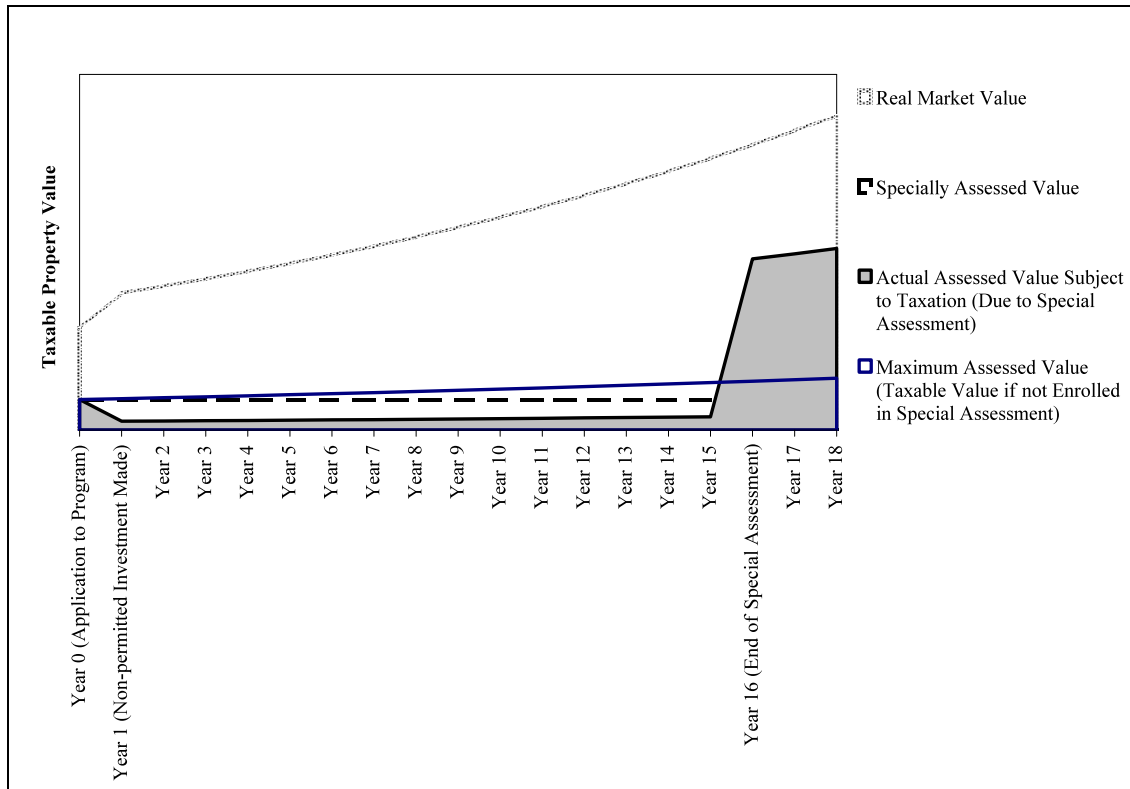
Figure 5.2 and Figure 5.3 show hypothetical graphs of projected assessed value for properties enrolling in Special Assessment from 1998 to late 2009. Both assume a CPR of 60 percent in year 16, aligned with the 2011 residential CPR in Multnomah County for example purposes, but show the different outcomes of different conditions that could act on similar properties.

Figure 5.2 shows the hypothetical case of a property that has a relatively high assessed value and invests considerable money into permitted rehabilitation. The figure assumes that the hypothetical property had a 75 percent IR in year 0, a permitted investment of 30 percent of RMV expended during year 1, and a RMV that increased three percent per year, except for year 1 in which it increased by the permit value. The figure shows that Special Assessment can provide a significant tax savings for the duration of enrollment because of the gap between the assessed value under Special Assessment and what it otherwise would have been if the property were not enrolled in the Program. Additionally, Figure 5.2 shows the potential for a lower assessed value at expiration than would have been the case if the property had not enrolled in Special Assessment. This condition can occur if the year 16 CPR is lower than the year 0 IR.



**Figure 5.2** Hypothetical Graph of Assessed Value Gap Resulting from Enrollment in Special Assessment During the 1998-2009 Period. Graph Shows Potential for Continued Savings After Expiration of Special Assessment Term Given Ideal Property and Market Conditions.

Figure 5.3 shows an alternative example. The figure shows a hypothetical case of a property with a relatively low assessed value that invests considerable non-permitted money into ongoing rehabilitation work. The figure assumes that the property had a 30 percent IR in year 0, an investment of 30 percent of RMV expended in year 1 for routine maintenance and non-major construction, and an RMV that increased at five percent per year. Figure 5.3 indicates that the property would receive a modest savings in property tax during the program because of the gap between the Special Assessment value and the projected MAV had it not participated in the Program. That said, Figure 5.3 shows the potential of a significant increase in MAV following expiration from the Program due to the higher RMV and CPR. Because year 16 CPR is higher than year 0 IR, the hypothetical property is hit with higher taxes than if it had not participated in the Program.



**Figure 5.3** Hypothetical Graph of Minimal Assessed Value Gap Resulting from Enrollment in Special Assessment During the 1998-2009 Period. Graph Shows Potential for Penalization After Expiration of Special Assessment Term Given Detrimental Property and Market Conditions.

The hypothetical graphs show the potential for properties to be unjustifiably penalized or rewarded with no correlation to historic preservation goals or amount of money invested. The different outcomes at the end of the participation period are the product of different IR values at year 0, the amount of permitted investment, the change in RMV, and the CPR at the end of the Special Assessment Period.<sup>236</sup>

### 2009-2011

Following the passage of Senate Bill 192 in 2009, the length of enrollment in Special Assessment was reduced from 15 to 10 years, effectively reducing the financial benefit calculation shown in the previous section by one-third. Although new

<sup>236</sup> Because of location, condition, or point in the six-year assessment cycle at the time of Measure 50's passing, a property's IR may be drastically different than the countywide CPR. This is especially evident in neighborhoods that have seen drastic growth in RMV since the mid-1990s such as Northeast Portland and parts of Deschutes County.

considerations were made for calculating the condominium benefit, the reduction in the length of the benefit was the most significant change to the formula for properties enrolling in their first term. The equations explained in the previous section are still used, albeit for 10 years instead of 15, in 2011 for first term applicants to Special Assessment. That said, Senate Bill 192 dealt a significant change for second term applicants to the Program who apply to Special Assessment when currently enrolled in any special assessment or exemption program. According to ORS 358.505,

If the property certified for Special Assessment as historic property was exempt or specially assessed at the time the application was made, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax year in which the application was made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.<sup>237</sup>

The Department of Revenue's Administrative Rules interpret this section as applying not just enrolled properties, but to all second term applicants to the Program. According to the Rules, "If the property is specially assessed or exempt in the tax year during which an application is made, SAV equals the RMV for that tax year multiplied by the CPR for that tax year."<sup>238</sup> That said, the Rules contradict this equation in an example provided within the same document stating, "SAV = RMV for assessment year in which application made."<sup>239</sup> This discrepancy leads to further confusion as to how to calculate the benefit for Special Assessment and is a drastic difference from the SAV calculation explained in the previous section and still employed for first term applicants.

Because the SAV remains constant for the entire ten years, the equations otherwise presented in the previous section can still be used to determine the taxable value for the ten years of benefit received by second term applicants to the program after the 2009 changes. Because MSAV is still calculated using the IR in year 1 and AV in

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<sup>237</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2009), ORS 358.505.

<sup>238</sup> State of Oregon, Oregon Department of Revenue, *Oregon Administrative Rules* (Salem, 2011), OAR 150-358.505, [http://arcweb.sos.state.or.us/rules/OARS\\_100/OAR\\_150/150\\_358.html](http://arcweb.sos.state.or.us/rules/OARS_100/OAR_150/150_358.html) (accessed May 5, 2011).

<sup>239</sup> State of Oregon, *Oregon Administrative Rules* (Salem, 2011), OAR 150-358.505.

subsequent years, the equations will not be repeated here.<sup>240</sup> Ultimately, the significance of the contradictions and the apparently lessened benefit for second term applicants since 2009 is of note. Senate Bill 192 increased the complexity and decreasing benefit that has marked the Program since the 1990s.

### Summary

Between 1975 and 2011 the equation used to determine the Special Assessment benefit has shifted from something clear and comprehensible to something complex and unpredictable. From 1975 through the mid-1990s, eligible property owners could simply know that they would, for 15 years, avoid imposition of additional taxes on the value of their property that increased during those years. Although 1995 brought the requirement that physical investment must be completed to receive Special Assessment, it was Measure 50 in 1997 that most complicated the benefit calculation. Because predicting the property's RMV and the countywide CPR in 10 or 15 years is mostly a guessing game, owners cannot know for certain that they will not be hit with higher tax bills after expiration from Special Assessment than if they had never entered the Program in the first place. Additionally, because of the inequities inherent in the post-Measure 50 assessed values, similar properties may get larger or smaller Special Assessment savings simply because of their MAV and IR at the time in which they enter the Program, meaning the benefit is awarded without regard to the amount of work performed. Furthermore, since 2009, the benefit calculation for second terms has been further complicated and the equation made confusing to the point that even the Department of Revenue's Administrative Rules are contradictory. The benefit computation in 2011 is complex and the average property owner is unable to forecast the financial benefit (or cost) of the Program over the long-term.

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<sup>240</sup> State of Oregon, *Oregon Revised Statutes* (Salem, 2009), ORS 358.505; State of Oregon, *Oregon Administrative Rules* (Salem, 2011), OAR 150-358.505.



## CASE STUDIES

This section provides five maximum variation case studies to illustrate the properties enrolling in Special Assessment during different periods of the Program and the benefit the owners receive(d) from enrollment. A Portland condominium, a Pendleton Urban Renewal Area, and a Portland single-family residence serve as critical cases, and a Portland commercial building and Albany residence serve as typical cases.

### Wickersham Condominiums

The Wickersham Condominiums at 410 NW 18<sup>th</sup> Avenue in Portland, Oregon, was selected as a critical case for this thesis exemplifying the experience of multifamily housing, both rental and condominium. Since 1979, condominium properties have received occasional criticism from county assessors and newspaper editorials due to the perceived economic class of their residents and the difficulty of reassessing the units following an apartment-to-condominium conversion. A 2006 study by Portland's Bureau of Planning found that 14 condominium buildings consisting of 1,038 units were participating in the Program at that time.<sup>241</sup> Due to the prolific conversion of apartments to condominiums in 2006, 2007, and 2008, especially in Portland's Alphabet Historic District, the number of condominiums is considerably higher today.<sup>242</sup> The Wickersham, an 18 unit building constructed in 1910, is representative of the historic apartment-to-condominium conversion craze and is illustrative of the Special Assessment incentive provided to multi-family housing buildings.<sup>243</sup>

The 2009 changes to Special Assessment called for a number of revisions to the benefit calculation for condominiums. According to Senate Bill 192, individual units within condominiums are only enrolled in—or removed from— Special Assessment if the entire building and all units therein are enrolled or removed from Special Assessment

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<sup>241</sup> Nicholas Starin, "Historic Special Assessment: Authorizing Second-Term Residential Applications" (Portland, OR: City of Portland Bureau of Planning, 2006), 9.

<sup>242</sup> Interview with Wickersham resident, March 30, 2011.

<sup>243</sup> Wickersham Special Assessment Binder, Wickersham Home Owner's Association File, Wickersham Condominiums, Portland, OR.

at the same time.<sup>244</sup> Additionally, after 2009, assessed values were to be calculated for each unit individually, rather than dividing the value of the overall building by the units. Upon initial sale of units by a developer, the specially assessed value of each unit would be recalculated. Since the revisions became law, no condominiums have entered into the program.<sup>245</sup> Therefore, the Wickersham is illustrative of the condominiums enrolled in the program in 2011.

The Wickersham was listed in the National Register of Historic Places in 1983 for its exceptional exterior and interior physical integrity remaining from the period of construction. In 1984 the property entered into an initial term of Special Assessment at true cash value of \$510,000. According to a property owner who bought a condominium unit in the Wickersham in 2006, the former owners of the building were surprised by the significant jump in property taxes incurred in 1999 when the then-apartment building ended its first term in Special Assessment.<sup>246</sup> At that time, annual property tax jumped from \$8,671 to \$14,764.<sup>247</sup> In 1998, the owner prepared a renovation plan delineating \$394,000 in proposed rehabilitation work and applied for a second term of Special Assessment. The application was granted and work began shortly thereafter.<sup>248</sup>

In 2005 the building was sold to MK Development, a developer who had converted a number of Portland apartments into condominiums. During 2005 and early 2006, the building was vacated of tenants and converted to condominiums. At the time the units were put on the market for sale, the majority of the preservation and renovation plan items had been completed, including stabilization of roof parapet, energy conservation measures, ADA access ramp construction, upgrades to the boiler, and repair and selective replacement in-kind of interior elements. Both the previous owner and MK

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<sup>244</sup> At least one condominium building, the Irving Street Bowman Apartments, had individual units enroll in the program at different dates.

<sup>245</sup> Susan Haylock, "Special Assessment of Historic Property Tax Benefit Program: Summary of SB 192 – Enrolled Version;" State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

<sup>246</sup> Interview with Wickersham resident, March 30, 2011.

<sup>247</sup> PortlandMaps, "410 NW 18TH AVE - NORTHWEST DISTRICT – PORTLAND," City of Portland, <http://www.portlandmaps.com/detail.cfm?action=assessor&propertyid=R140852> (accessed May 10, 2011).

<sup>248</sup> Wickersham Special Assessment Binder, Wickersham Home Owner's Association File, Wickersham Condominiums, Portland, OR

Development were responsible for completing these expected work items, but many items were not officially checked off until 2006. Excepting rust repair of fire escapes, basement floor polishing, and parapet modifications, little has been done to the building since 2006 and the preservation and renovation plans are compliant with SHPO expectations.<sup>249</sup>

The Wickersham will expire from its second term of Special Assessment in 2014, leaving condominium owners with much higher property tax bills than they currently pay. According to one resident in the building, the buyers of the units and their real estate agents have been largely unfamiliar with the specifics of the Special Assessment Program and many residents are unaware of the increase in assessed value coming in 2014 due to the property's expiration from Special Assessment and the reassessment of each unit using the CPR calculation. That said, an interview conducted for this thesis suggests that owners are aware of their obligation to receive design approval from SHPO and are sensitive to the historic fabric of the building in large part due to their participation in the Program.<sup>250</sup>

In 2011, the typical three-bedroom Wickersham condominium unit is assessed a specially assessed value of approximately \$58,280. Based upon RMV and the countywide residential CPR in 2011, the assessed value of the typical unit is only about one-fifth of what it would be without Special Assessment. If the Special Assessment benefit were to end in 2011, the property taxes on the typical unit would climb from just over \$900 a year to close to \$5,000 a year.<sup>251</sup> Although the RMV and CPR for 2014 are unknown, a similar ballpark increase can be expected. Because the condominium conversation happened during the period of Special Assessment, it is unknown if the post-Special Assessment taxes are higher than residents would have paid had the property not been enrolled in the Program. A current photograph of the Wickersham is included as Figure 5.4.

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<sup>249</sup> Wickersham Special Assessment Binder, Wickersham Home Owner's Association File, Wickersham Condominiums, Portland, OR.

<sup>250</sup> Interview with Wickersham resident.

<sup>251</sup> PortlandMaps, "410 NW 18TH AVE - NORTHWEST DISTRICT – PORTLAND," City of Portland.



**Figure 5.4** Wickersham Condominiums, 2011. Source: Author.

### Pendleton Urban Renewal Area

The Eastern Oregon community of Pendleton, made famous by the nationally renowned Round-Up, provides a critical case of commercial property participation in the Special Assessment Program when competing public programs are available to property owners. In 1986 Pendleton's South Main Street Commercial Historic District was accepted into the National Register of Historic Places, bringing 25 prominent downtown Pendleton commercial properties into the National Register. Additional properties were individually nominated in Pendleton during the years 1980 to 1997, giving the community a total of 40 individual and contributing properties listed in the National

Register as of March 2011. The overwhelming majority of these properties are commercial or residential.<sup>252</sup>

In 2003 the Pendleton City Council created an Urban Renewal District to “promote the vitality of downtown and the Umatilla Riverfront as the cultural and tourism center of the Pendleton community.”<sup>253</sup> The following four main goals dictate the Urban Renewal Agency Plan:

1. Increase the vitality of Pendleton’s downtown, including an objective to rehabilitate and restore historic and cultural structures;
2. Connect downtown Pendleton to the Umatilla Riverfront;
3. Improve downtown Pendleton as a convention and tourism destination, including an objective of the enhancement of downtown businesses through streetscape and pedestrian amenities;
4. Develop a range of housing options for a mixed use downtown, including an objective of the rehabilitation of existing housing units in the downtown core.<sup>254</sup>

To carry out the urban renewal reinvestment plan, the City of Pendleton authorized the use of TIF as described in Chapter IV, as well as financing through “advances, loans, grants and any other form of financial assistance from the Federal, State or local governments.”<sup>255</sup>

The Plan entitles properties located within the Urban Renewal District to a number of TIF-based incentive programs. A University of Oregon thesis authored by Adriaan Gregoor Passchier provides an illustrative resource of case study examinations of many of the different Oregon Urban Renewal programs, including those offered by

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<sup>252</sup> Gail Sargent, “South Main Street Commercial Historic District,” National Register of Historic Places Nomination, National Park Service, 1986.

<sup>253</sup> City of Pendleton, “Pendleton Downtown/Riverfront Urban Renewal Agency Plan/Report” (Pendleton, OR: City of Pendleton, 2003), 1.

<sup>254</sup> City of Pendleton, “Pendleton Downtown/Riverfront Urban Renewal Agency Plan/Report,” 1-2.

<sup>255</sup> City of Pendleton, “Pendleton Downtown/Riverfront Urban Renewal Agency Plan/Report,” 14.

Pendleton, and should be consulted for further details.<sup>256</sup> One of the programs available in Pendleton is the Façade Restoration Program, which began in 2006. The Façade program provides 40 percent of the costs of improvements to the exterior of buildings located within the Area of Local Historical Significance, up to a maximum of \$30,000.<sup>257</sup> Grants are available to historic buildings that are in need of exterior rehabilitation in keeping with the “historic character” of the district.<sup>258</sup> Another program available within the Urban Renewal Area is the Second Story Development Program which offers up to \$100,000 to install elevators and stairs necessary to make unoccupied second stories accessible. Programs for demolition of non-historic buildings and “Jumpstart” loans to small businesses are also available to property owners within the Urban Renewal Area.<sup>259</sup>

All 25 contributing properties in the South Main Street Commercial Historic District are included within the Urban Renewal Area because the historic district is located at the geographic center of the Urban Renewal Area. An additional six properties listed in the National Register are located within the Urban Renewal Area, making for a total of 31 National Register properties within the Area. A map of these properties and the boundaries of the Urban Renewal Area is included as Figure 5.5.

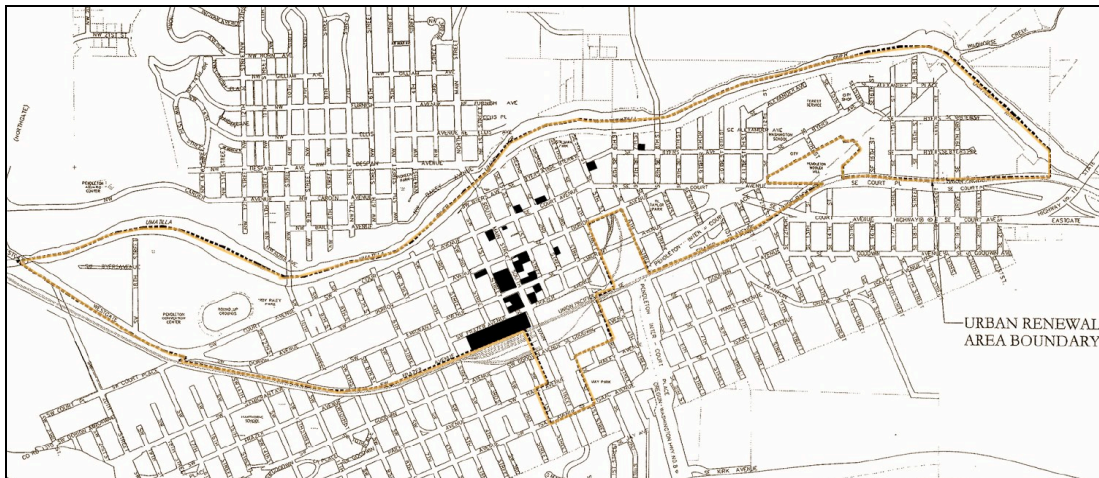
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<sup>256</sup> Adriaan Gregoor Passchier, “Urban Renewal in Rural Oregon Communities: A Tool for Historic Preservation,” (master’s thesis, University of Oregon, 2009).

<sup>257</sup> The Area of Local Historical Significance is a local designation of much of downtown Pendleton including the South Main Street Commercial District and many of the individually properties listed in the National Register of Historic Places. Grants exceeding \$30,000 are available to special projects approved by the Urban Renewal Agency.

<sup>258</sup> Pendleton Urban Renewal Agency, “Façade Restoration Grant Program: Program Overview,” City of Pendleton, <http://www.pendleton.or.us/vertical/Sites/%7B522DA79D-D3C8-42E9-999C-16BD8CD7D02E%7D/uploads/%7BCB8FE ECB-0611-49D8-BE1A-C8ED0B078A09%7D.PDF> (accessed April 5, 2011).

<sup>259</sup> Larry Lehman, phone interview by author, April 4, 2011.



**Figure 5.5** Pendleton Urban Renewal Area Showing Individual and Contributing National Register Properties in Black. Source: City of Pendleton.

Because the programs offered by the Urban Renewal Area are dependant on increasing property taxes, Special Assessment directly conflicts with the TIF model. According to Pendleton Development Commission Executive Director Larry Lehman, “Properties in the Urban Renewal Area can apply for and receive Special Assessment, but cannot thereafter receive support from the Renewal Area’s programs.”<sup>260</sup> Furthermore, if “a property were to apply to Special Assessment after accessing urban renewal funds, the application [for Special Assessment] would be denied by the [City] Council.”<sup>261</sup> As of April 2011, no Special Assessment applications have been denied by the City Council and the Urban Renewal Agency “watches listed and eligible National Register buildings closely” to assure TIF funds are not misallocated to properties participating in Special Assessment.<sup>262</sup> No other examples could be found that suggest similar policies are in place anywhere else in Oregon and nowhere has it been stated that Pendleton’s City Council would even have the legal authority to deny a Special Assessment application.

As of April 2011, 16 properties in Pendleton had participated in the Special Assessment Program, all of which were located in today’s Urban Renewal Area. With the exception of Hamley & Company Leather Goods Store, which enrolled in Special

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<sup>260</sup> Lehman, interview.

<sup>261</sup> Lehman, interview.

<sup>262</sup> Lehman, interview.

Assessment in 2006, all participating properties have ended their Special Assessment terms due to expiration or voluntary removal by their owners. The Hamley Store had an assessed value of \$169,900 when it entered the Program, with plans to complete \$1.1 million in rehabilitation work over the 15 years.<sup>263</sup>

Over 35 properties have taken advantage of TIF Façade Restoration Program grants since 2006, accounting for \$1,532,751 in TIF monies to foster over \$4 million in project costs. As of 2011, the majority of the Façade Restoration Program grantees have been National Register listed buildings. Excepting the Hamley & Company building, no Pendleton property has enrolled in the Special Assessment Program since 1994 and none have been added to the National Register since 1997.<sup>264</sup> Figure 5.6 shows a photograph of the exterior of the Hamley & Company Store in 1982 and Figure 5.7 shows the interior of the store during rehabilitation in 2006.



**Figure 5.6** Hamley & Company Store, 1982. Source: University of Oregon Libraries.

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<sup>263</sup> “Hamley Store,” Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>264</sup> Pendleton Urban Renewal Agency, “Façade Grant Program: Approval Totals,” (Pendleton, OR: City of Pendleton, 2011); State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*; State of Oregon, State Historic Preservation Office, “Oregon Historic Sites Database.”





**Figure 5.7** Hamley & Company Store, 2006. Source: State Historic Preservation Office.

### Nicolai-Cake-Olsen House

The Nicolai-Cake-Olsen House at 1903 NE Hancock Street in Portland was selected for this thesis as a critical case, showing a high level of investment, correspondence, and diligence in preservation as a participant in the Program. Additionally, it was a pioneering National Register listing in the now designated Irvington Historic District, a district which was officially listed in the National Register during the research for this thesis. Because 2,394 properties contribute to the district, including the Nicolai-Cake-Olsen House, the listing of Irvington in the National Register increased the Special Assessment eligibility pool by more than twenty percent.<sup>265</sup> Because of the late listing of the Irvington Historic District, the National Register property statistics included in this thesis do not take into account Irvington's 2,394 contributing properties.

The Nicolai-Cake-Olsen House was constructed in 1905 and 1906 by Harry T. Nicolai using plans prepared by architect Emil Schacht. The house was designed in the Arts and Crafts Style, an early predecessor to countless Arts and Crafts houses built in Irvington in the years that followed. The house is wood frame, two-and-a-half stories in

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<sup>265</sup> Ranzetta, et al., 2010, "Irvington National Register of Historic Places Nomination."

height, and—as of 1927—clad in stucco. According to the National Register Nomination, it is different in plan and design than many of Schacht’s other residences and embodies a significant place in the architectural development of Portland and the maturation of the regional Arts and Crafts movement.<sup>266</sup> In 1999 new owners acquired the property and pursued a nomination to list it in the National Register of Historic Places.<sup>267</sup> The owners recognized that much of the interior craftsmanship that made the house significant had been altered or replaced, and set out to develop a strategy for rehabilitation and restoration during the months when the National Register Nomination was being prepared. In the summer of 2001 the property was accepted into the National Register.<sup>268</sup>

Also in 2001, the owners of the Nicolai-Cake-Olsen House applied for and were accepted into the Special Assessment Program. A 15-page Preservation Plan was drafted for an estimated \$81,850 worth of physical improvements to the residence, the majority of which was to be spent on interior restoration. At the time of application the house had an assessed value of \$250,470 and an annual property tax bill of just over \$4,000. According to the owners, “When the Preservation Plan was submitted, it meant there was no going back. It provided motivation to learn and kept the project on the road to accuracy.”<sup>269</sup> Although the owners admittedly would have done some of the restoration work had they not enrolled in Special Assessment, the framework provided by the Program and the availability of SHPO assistance allowed them to accomplish a higher level of historical accuracy and quality of detail than would have otherwise been accomplished.<sup>270</sup>

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<sup>266</sup> Amy McFeeters-Krone, “Nicolai-Cake-Olsen House National Register of Historic Places Nomination,” National Register of Historic Places Nomination, National Park Service, 2000.

<sup>267</sup> PortlandMaps, “Property Description: 1903 NE Hancock Street,” City of Portland, [http://www.portlandmaps.com/detail.cfm?action=Assessor&propertyid=R193169&state\\_id=1N1E26DC%20%20200&address\\_id=603260&intersection\\_id=&dynamic\\_point=0&x=7652171.281&y=689062.596&place=1903%20NE%20HANCOCK%20ST&city=PORTLAND&neighborhood=IRVINGTON&seg\\_id=111387](http://www.portlandmaps.com/detail.cfm?action=Assessor&propertyid=R193169&state_id=1N1E26DC%20%20200&address_id=603260&intersection_id=&dynamic_point=0&x=7652171.281&y=689062.596&place=1903%20NE%20HANCOCK%20ST&city=PORTLAND&neighborhood=IRVINGTON&seg_id=111387) (accessed March 17, 2011).

<sup>268</sup> Amy McFeeters-Krone, “Nicolai-Cake-Olsen House.”

<sup>269</sup> Interview with Nicolai-Cake-Olsen homeowners, March 25, 2011.

<sup>270</sup> Interview with Nicolai-Cake-Olsen homeowners.

In 2006, the owners of the property submitted a progress report to the SHPO outlining the work completed between 2001 and 2006. Additionally, an amendment was submitted to account for changes in the viability of some of the specifications outlined in the Preservation Plan submitted with the original application for Special Assessment. In 2006, over \$100,000 had been expended on the rehabilitation and restoration work called for in the Preservation Plan.<sup>271</sup> As of early 2011, the owners estimate about \$170,000 has been spent to accomplish the goals set forth in the 2001 Preservation Plan.<sup>272</sup> Because of its high level of detail and illustration of work performed by participating properties, a portion of the 2006 Progress Report for the Nicolai-Cake-Olsen House is included as Appendix B. The Progress Report includes a number of photographs.

Since enrolling in the Program, three permits have been required to perform physical work on the residence. The permits represent ongoing maintenance, meaning none of the work performed on the Nicolai-Cake-Olsen House would have led to an increase in Maximum Assessed Value had it not been enrolled in Special Assessment. That said, the owners of the house have saved approximately \$10,809 in property taxes since enrolling in the program. Assuming no new construction is built on the property and the tax rate remains at its 2010 level, the owners will save \$19,977 in property taxes over their 15-year experience in the Program.<sup>273</sup>

Figure 5.8 shows the actual and Maximum Assessed Values for the Nicolai-Cake-Olsen House from 2000 to 2010, and projects different scenarios for the real market and assessed values that will be calculated at the expiration of the 15-year Special Assessment term. The assumptions for the projections are outlined in the legend for Figure 5.8. Because of the unpredictability of RMV and CPR for 2016, it will remain to be seen if the property's post-Special Assessment assessed value is less than, equal to, or greater than the assessed value had the property not been enrolled in Special Assessment. If the assessed value is calculated at an amount greater than had the property not participated in the program, over an indeterminable period of time the Special

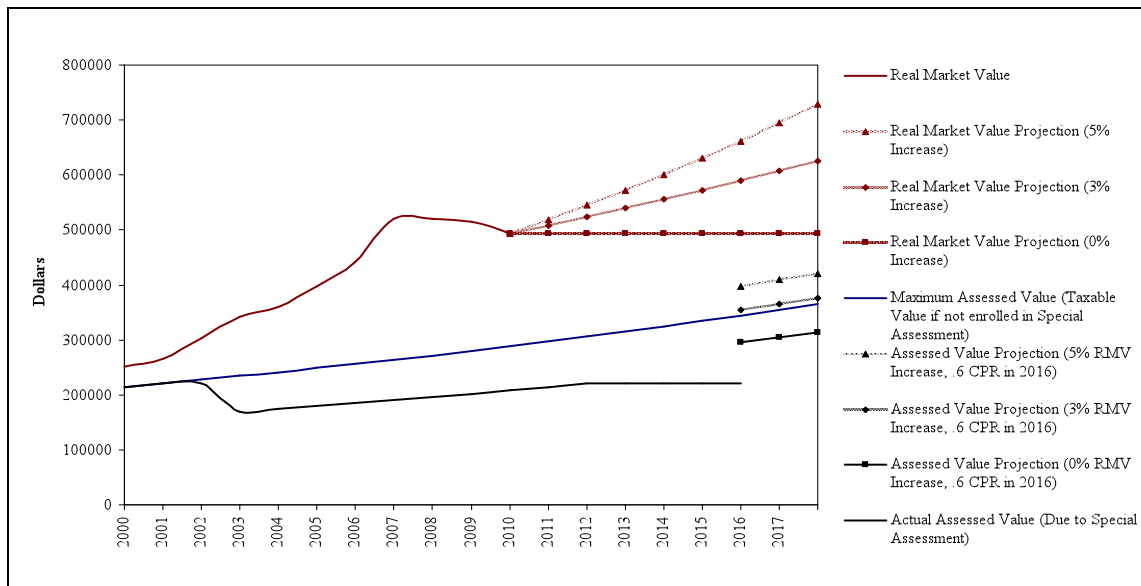
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<sup>271</sup> Nicolai-Cake-Olsen House, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>272</sup> Interview with Nicolai-Cake-Olsen homeowners

<sup>273</sup> PortlandMaps, "Property Description: 1903 NE Hancock Street."

Assessment savings will be paid back in increased tax collection. Had the Special Assessment term for the house been only 10 years, the property owners would have a recalculated 2012 maximum assessed value equal to, or slightly greater than if it had not enrolled in the program.<sup>274</sup>



**Figure 5.8** Nicolai-Cake-Olsen House Valuation Trends and Projection Scenarios, 2000-2018.

### Paul Schuele Building

Since Senate Bill 192 was passed in 2009 modifying Special Assessment, 20 properties have entered into the 10-year Program. Three of these properties, the Ladd Carriage House, Paul Schuele Building, and Fire Station Number 7, were redevelopment projects undertaken by Portland’s Venerable Group, Inc., a private real estate development firm specializing in historic rehabilitation. Applications for 20 percent Federal Tax Incentive credits have been submitted for the Ladd Carriage House and Fire Station Number 7.<sup>275</sup> As an intern in the office of Venerable in 2009 and 2010, I had the

<sup>274</sup> This calculation assumes that the property’s Real Market Value and countywide Change Property Ratio remain unchanged for the remainder of 2011.

<sup>275</sup> National Park Service, “Check the Status of your Project,” National Park Service, <http://tps.cr.nps.gov/status/results.CFM> (accessed May 1, 2011).

opportunity to work on different aspects if all three projects, including a National Register Nomination for the Ladd Carriage House, components of a Federal Historic Preservation Tax Incentive application for Fire Station Number 7, and miscellaneous documentation and assistance with the planning for the Paul Schuele Building rehabilitation. Because the Paul Schuele Building was the most recently accepted property in the program for which adequate data could be collected, it serves as the typical case for properties entering the program today.

The Paul Schuele Building, known informally today as the “Belmont Building,” was built in 1924 at 534 SE Belmont by architect Charles W. Ertz for use as a “public garage.”<sup>276</sup> Ertz, one of Portland’s lesser-known architects of the early twentieth century designed a number of industrial, residential, and multi-family houses between the early 1900s and late 1930s, at which point Ertz relocated to Southern California. The Paul Schuele Building was built in a neighborhood of light industrial and automotive uses, with three tenants—the Northwest Auto Company, King’s Automotive, and C & S Auto Paint Shop—occupying the Building clear up to the 1990s.<sup>277</sup> In 1991 the building was listed in the National Register as a contributor to the East Portland Grand Avenue Historic District. According to the National Register Nomination, “The building has a strong industrial feeling in its detailing which includes large multi-paned windows on the first and second floor, equally divided bays, and a generally flat facade with little or no ornamentation.”<sup>278</sup> In 1993 it was acquired by the Venerable Group and in recent years was leased to a scooter store and artists’ studios.<sup>279</sup>

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<sup>276</sup> Central Eastside Industrial Council, et al., “East Portland Grand Avenue Historic District National Register of Historic Places Nomination,” National Register of Historic Places Nomination, National Park Service, 1991, 7-91.

<sup>277</sup> Venerable, “Work Underway at Historic 6th + Belmont Building,” Venerable Group, Inc., <http://www.venerableproperties.com/2010/09/30/2920/> (accessed April 5, 2011).

<sup>278</sup> Central Eastside Industrial Council, et al., “East Portland Grand Avenue Historic District National Register of Historic Places Nomination,” 7-91.

<sup>279</sup> PortlandMaps, “532 SE Belmont,” City of Portland, [http://www.portlandmaps.com/detail.cfm?action=Assessor&propertyid=R233837&state\\_id=1S1E02BB%20%207700&address\\_id=646537&intersection\\_id=&dynamic\\_point=0&x=7648510.214&y=681727.624&place=532%20SE%20BELMONT%20ST&city=PORTLAND&neighborhood=BUCKMAN&seg\\_id=115911](http://www.portlandmaps.com/detail.cfm?action=Assessor&propertyid=R233837&state_id=1S1E02BB%20%207700&address_id=646537&intersection_id=&dynamic_point=0&x=7648510.214&y=681727.624&place=532%20SE%20BELMONT%20ST&city=PORTLAND&neighborhood=BUCKMAN&seg_id=115911) (accessed April 15, 2011).

The application for Special Assessment was received in October 2010 and the property enters its 10-year Special Assessment term in July 2011 when the new tax year begins. Significant interior rehabilitation work was called for in the preservation plan, the majority of which was completed in the fall of 2010. ADA access and the replacement of roll-up doors with historically-appropriate pedestrian doors achieved greater accessibility to the building, even though not a necessary part of first term enrollment. The MSAV of the property for the 2011-12 tax year is expected to be \$97,396, down from \$235,170 in the current tax year.<sup>280</sup> A photo of the interior of the Paul Schuele Building is included as Figure 5.9.



**Figure 5.9** Interior of Paul Schuele Building, 2010. Source: Special Assessment Files, State Historic Preservation Office.

### Gray House

The Gray House at 637 Fifth Avenue SE in Albany’s Hackleman Historic district is a typical residential property participating in Special Assessment. Built around 1900 the Gray House is representative of the residential structures that surround it in Albany’s historic Hackleman district. In 1982 the house, along with 223 other contributing

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<sup>280</sup> PortlandMaps, “532 SE Belmont.”

buildings, was listed in the National Register as part of the Hackleman Historic District. Ninety-eight percent of the properties in the district contribute to the district's period of significance, 1860 to 1915. This high level of contributing buildings makes the Hackleman District one of the most intact historic districts in the state.<sup>281</sup> The Gray House is 1.5 stories in height and is currently used as rental housing.<sup>282</sup>

In 1991 the Gray House entered its first term of Special Assessment. At the time the house had an assessed value of just \$30,410. Because the Program did not require preservation plans at the time, the totality of the rehabilitation work completed during that first term is not known.

When the first fifteen-year period of Special Assessment ended in 2006, the assessed value of the property jumped to about \$150,000, a nearly five fold increase in value and, therefore, annual property taxes owed. After the owner paid a \$500 application fee and prepared a renovation plan expecting \$30,000 in work, the Gray House was accepted into a second fifteen-year term of Special Assessment in 2008. The assessed value in 2008 was \$152,720. Renovation plan items anticipate porches will be rehabilitated, windows will be restored and weather-stripped, siding will be scrapped and repainted, and doors will be restored.<sup>283</sup>

The property owner of the Gray House was interviewed for the thesis and stated that she had no intent to enroll in a second term of Special Assessment until seeing the jump in property taxes in 2006. That said, the \$500 application fee was high enough that serious consideration was paid to applying to a second term of Special Assessment.<sup>284</sup> Additionally, while the building needed significant amounts of maintenance work, almost all of the work completed as of May 2011 qualifies as ongoing maintenance, exempt from a change in assessed value had the property not been classified as specially assessed.

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<sup>281</sup> State of Oregon, State Historic Preservation Office, "Oregon Historic Sites Database."

<sup>282</sup> Interview with Gray House property owner, May 2, 2011; State of Oregon, State Historic Preservation Office, "Oregon Historic Sites Database."

<sup>283</sup> Gray House, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>284</sup> Senate Bill 192 reduced the Special Assessment application fee in 2009.

In 2007, the property owner attempted to calculate the amount of money that would be saved by enrolling in Special Assessment. She does not believe that the value has been calculated correctly given early conversations with Program stakeholders and her initial math. Furthermore, the owner believes that there is no way for her to accurately forecast the assessed value and property taxes that will be calculated in 2023 when the property expires from its second fifteen year term. Although the Program “isn’t a big savings,” the property owner of the Gray House is pleased that the Program would hold future owners to a higher preservation ethic than the local regulations otherwise would.<sup>285</sup> Ultimately, she does not regret placing the Gray House on Special Assessment but does not believe there is much financial reward being provided to her for investing in her historic property.<sup>286</sup> Photographs of the Gray House in 2007 are included as Figure 5.10 and Figure 5.11.



**Figure 5.10** Gray House Exterior Showing Porch to be Rehabilitated, 2007. Source: Special Assessment Files, State Historic Preservation Office.

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<sup>285</sup> Interview with Gray House property owner.

<sup>286</sup> Interview with Gray House property owner.





**Figure 5.11** Gray House Exterior Showing Windows to be Restored and Siding to be Scraped and Painted, 2007. Source: Special Assessment Files, State Historic Preservation Office.

### Summary

The case studies provided in this section illustrate the different types of properties and situations in which owners have entered into Special Assessment during the recent history of the Program. Although residential properties like the Gray House are typical participants in the Program, condominiums like the Wickersham exemplify the unique considerations for property ownership changes. As illustrated by the Nicolai-Cake-Olsen House example, accurately forecasting the post-Special Assessed MAV is impossible and can either provide a continued benefit or long-term detriment to properties once their participation has ended based on unpredictable changes in CPR and RMV. The Pendleton example provides an insight into the incentive provided by the Program in places where competing programs are available and where the growth in property values have held relatively constant. Ultimately, the case studies provide visual and contextual reference for the properties that have participated in the Program in recent years.

## **SPECIAL ASSESSMENT BY THE NUMBERS**

Since the passing of Special Assessment in 1975, several trends suggest that the Program provides a less universal, less beneficial incentive than it once did. Although these trends could be described in detailed narrative form, graphical representation will be the dominant method of explanation in this section. Each of the sections that follow identifies ways in which the Special Assessment incentive has changed since 1975.

### Participation

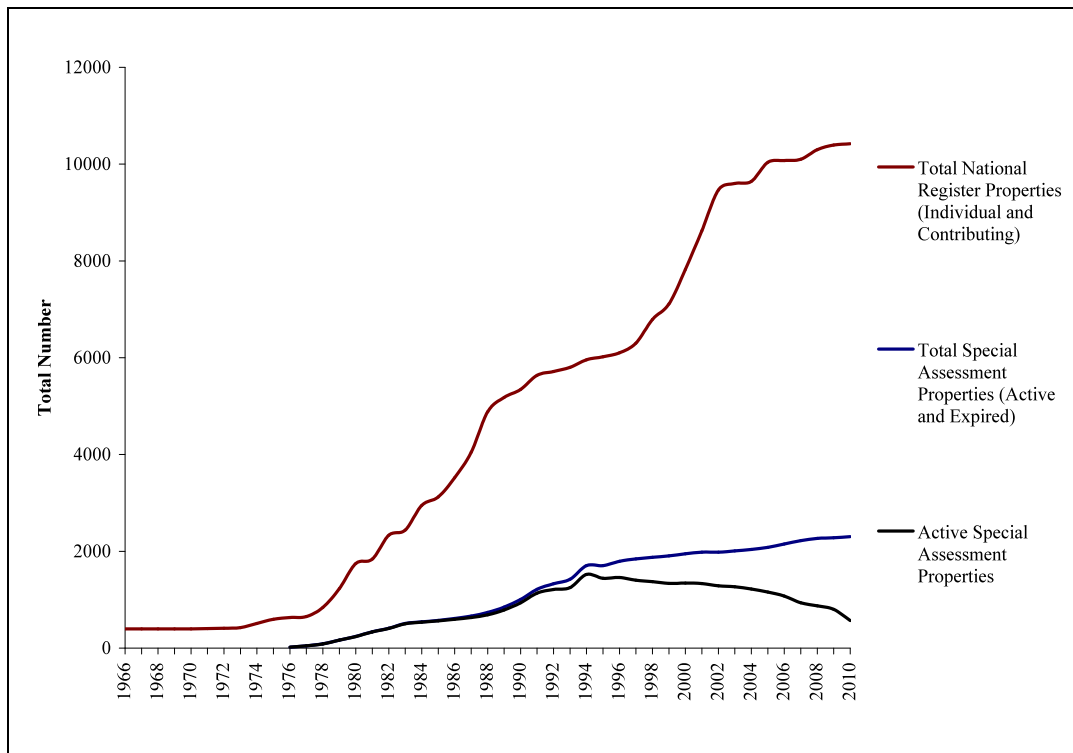
Since 1975, the total number of properties that have enrolled in Special Assessment has jumped from 21 in 1976, to 1,005 in 1990, and to 2,304 in 2010. That said, since 1994 participation in the program has shown a clear trend on the decline. After 1994, the annual number of properties enrolling into the Program has declined almost every year and shows a clear trend away from the generally increasing annual enrollment of the first two decades of the Program. Because of the decline in new properties entering the Program and the expiration of properties that entered the Program in its early years, the number of properties actively enrolled in Special Assessment has continuously dropped since 1994. Furthermore, 1994 served as the high point for the percentage of National Register properties participating in Special Assessment.

Although not all National Register properties are privately owned, ownership data is not easily obtained and thus the number of National Register properties essentially serves as the eligibility pool for Special Assessment. While Oregon had 10,421 properties listed in the National Register at the end of 2010, only 568 properties were currently enrolled in Special Assessment giving the Program a participation rate of 5.45 percent in 2010.<sup>287</sup> At its high in 1994, 25.53 percent of National Register properties were participating in the Program. Figure 5.12 shows total and active participation in Special Assessment compared to total National Register listings in Oregon. Figure 5.13 shows active participation in Special Assessment as a percentage of National Register Nominations by year.

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<sup>287</sup> Note that a number of properties expired from their second and final terms of enrollment at the end of the 2010 tax year.

It should be noted that the Program never received more than a one-in-four participation rate, meaning that at all times since 1975 over 75 percent National Register properties have been out of Special Assessment. Public and nonprofit ownership of National Register buildings, the listing of landscapes and archaeological sites, and the expiration of former participants accounts for a portion of this low participation rate. Furthermore, a lack of education about the Program’s existence may contribute to some of the participation gap. Because the requirements of the Program have always—even since the mandating of rehabilitation planning and investment—been such that the most National Register properties are eligible to participate, it is not a factor of limited ability of enrollment. The historically low rate suggests that other aspects of the Program are not beneficial enough to incent private property owners to enter Special Assessment as an incentive to preserve their properties. Furthermore, the declining participation rate since the 1990s suggests that the Program is even less of an incentive than it once was.



**Figure 5.12** Total National Register Listings, Total Special Assessment Properties, and Active Special Assessment Properties by Year.



**Figure 5.13** Active Special Assessment Properties as a Percentage of Total National Register Listings by Year.

### Assessed Value

Since 1975 the State Historic Preservation Office has tracked the assessed value (formerly true cash value) of properties when they enter the Special Assessment Program.<sup>288</sup> While the Program saw relatively steady growth in the total annual assessed value of properties entering Special Assessment in the late 1970s and early 1980s, after the property tax limitation measures and revisions to the Program of the 1990s, the trend became much less constant and more marked by vast annual differences. This change is likely because of the necessity of significant rehabilitation investment for Special Assessment to yield any significant savings. Ultimately, since 1994 the Program has seen a much higher average assessed value for properties entering the program than in the decades before. Since fewer properties have been entering the Program annually since the late-1990s, the total amount of assessed value represented by each year’s cohort of

<sup>288</sup> Assessed values were not comprehensively collected in 1986, 1987, and 1988, leading to artificially low values in Figures 5.14 and 5.15 during those years.

Special Assessment applicants has generally been the same or lower after 1994 as it was in the years prior to 1994.

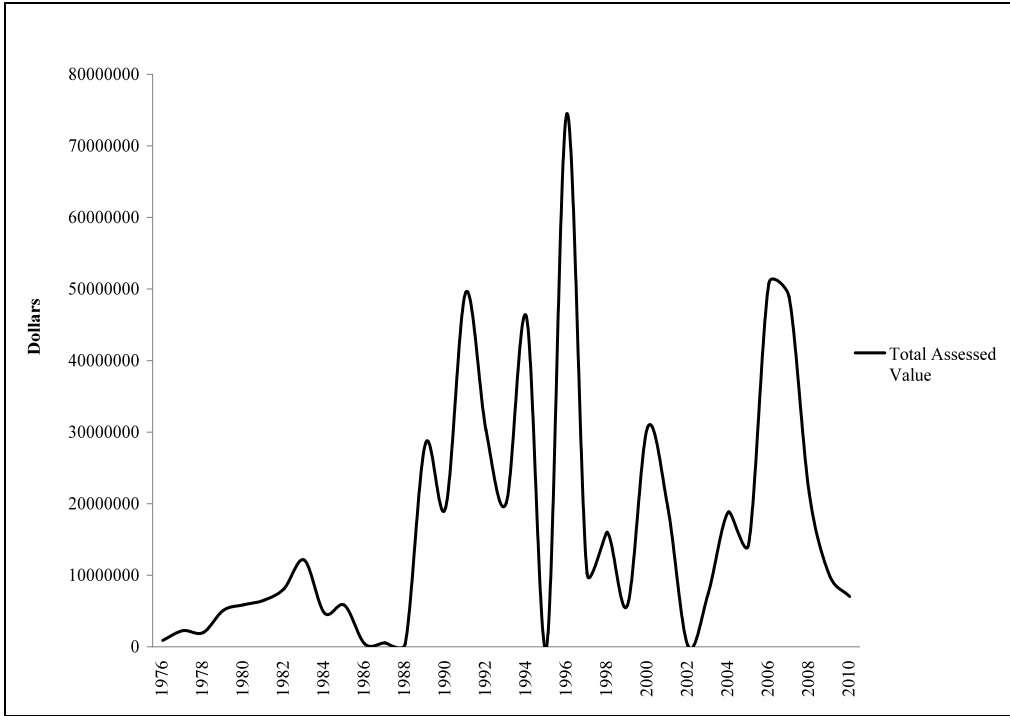
Figure 5.14 and Figure 5.15 show the total and average and assessed value of properties entering the program on an annual basis.<sup>289</sup> Because the assessed value trend has become dominated by large multi-million dollar redevelopment and very few low-value residential and commercial projects, the benefit offered by Special Assessment is being used primarily by those with multiple funding mechanisms, such as those described in the next section.

While many of the criticisms of the Program historically have been around “wealthy West Hills homeowners,” after the legislative and property tax changes of the 1990s, Special Assessment began to become dominated by commercial applicants, in no small part due to the restriction on residential second terms during the late 1990s and early 2000s. As seen by the Gray House, many of the state’s National Register properties have assessed values well under \$450,000, the average assessed value of properties entering the Program since 1995. Although the average property entering the program today is a higher valued commercial property in need of significant rehabilitation, the trend in assessed value growth does not signal the universality necessary for many of the incentive purposes identified at the beginning of this chapter. Given the trend, the Program is not providing an incentive to average property owners to combat land use patterns, compensate for regulations, and make preservation competitive with new construction.<sup>290</sup>

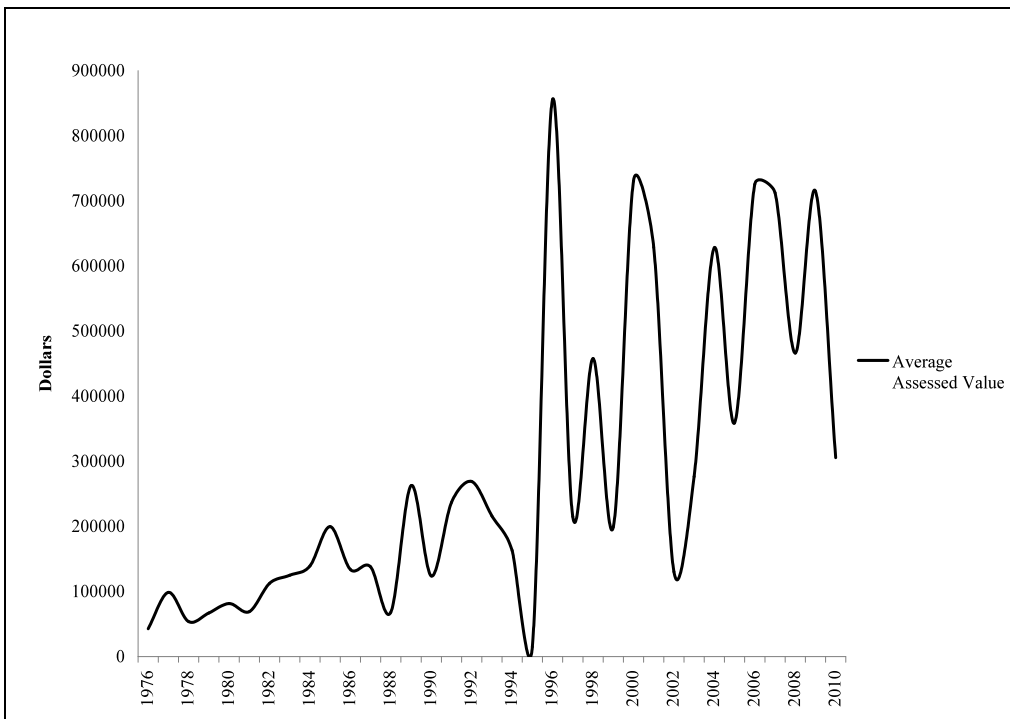
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<sup>289</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*; This increase in assessed value may be due, in part, to the allowance of second terms only for commercial properties during the late 1990s and early 2000s.

<sup>290</sup> At the time of this writing, for example, a number of properties that had participated in Special Assessment in the past are currently being considered for demolition because of their low assessed value and high site development potential.



**Figure 5.14** Total Assessed Value of Properties Entering Special Assessment by year of Entry.



**Figure 5.15** Average Assessed Value of Properties Entering Special Assessment by year of Entry.

### Certified Rehabilitation Projects

With the introduction of the Federal Historic Preservation Tax Incentive in 1976, commercial property owners in Oregon completing significant rehabilitation projects have taken advantage of both the federal program and Special Assessment. Because the federal program provides 20 percent of qualified rehabilitation costs in the form of a tax credit, the calculation of the benefit for that program is much simpler than for the Special Assessment program, especially since the passage of Measure 50 and the complicated Special Assessment equation that has resulted.

The first qualified Federal Historic Preservation Tax Incentive project in Oregon was completed in 1981 for a Portland rehabilitation that cost \$40,200. In 2010, sixteen projects totaling \$126,950,000 in rehabilitation costs were completed in Oregon, yielding over \$25,390,000 in historic preservation incentive tax credits. Table 5.2 shows the number of Federal Historic Preservation Tax Incentive projects in Oregon by year. During the 2000s, the average qualified rehabilitation project cost was well over a million dollars and most Federal Historic Preservation Tax Incentive projects were enrolled in Special Assessment at the time of the project's completion.<sup>291</sup> By the late 2000s, more federal monies were going towards preservation projects in Oregon than the total tax expenditure of the Special Assessment Program.

The federal tax incentive, while it is a pivotal incentive in making major commercial rehabilitations viable, is only used by a few properties each year and meets only a few of the five preservation incentive goals. While the qualifying projects must be kept within the same ownership and comply with preservation standards for five years, the low number of projects and short window for restrictions does not create a widespread and long-term contract between the community and property owner to foster stewardship. Furthermore, the federal program does not counteract land use policies or local regulations in any significant manner because the credits are not universally available to all National Register properties. Because the Federal Historic Preservation Tax Incentive does stimulate major rehabilitation and make reuse more competitive with

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<sup>291</sup> State of Oregon, State Historic Preservation Office, "Federal Tax Program—Approved Projects," (Salem, OR: State of Oregon, 2011).

new construction, it is a compliment to the Special Assessment Program in a few unique cases where major rehabilitation is needed.

**Table 5.2** Certified Federal Historic Preservation Tax Incentive Rehabilitation Projects in Oregon by Year. Data Source: State Historic Preservation Office.

1981	1	1991	5	2001	5
1982	1	1992	7	2002	10
1983	6	1993	9	2003	5
1984	15	1994	5	2004	9
1985	15	1995	2	2005	5
1986	14	1996	4	2006	9
1987	3	1997	2	2007	10
1988	3	1998	10	2008	7
1989	5	1999	3	2009	6
1990	4	2000	7	2010	15

### Tax Expenditure

Every biennium since 1996, the State of Oregon has produced *Tax Expenditure Reports* under the Governor, Department of Revenue, and the Department of Administrative Services. The *Reports* itemize each of the state’s tax credits, deferrals, exemptions, and special assessments. In 1996, Oregon had 293 tax expenditures on property, income, and other taxes. By 2010, 378 such expenditures were on the books.<sup>292</sup> The Special Assessment of Historic Property Program is one such expenditure program as it meets the definition of tax expenditure provided in the Reports, “Tax expenditures can be viewed as: (1) providing financial assistance to certain groups of taxpayers, (2) providing economic incentives that encourage specific taxpayer behavior, or (3) simplifying or reducing the costs of tax administration.”<sup>293</sup>

Especially significant after the passage of Measures 5 and 50, the *Tax Expenditure Reports* provide data on assessed value exempted and property tax revenue lost due to special taxing programs in an era when local governments have been

<sup>292</sup> Budget and Management Division, Department of Administrative Services Research Section, Department of Revenue, *Tax Expenditure Report* (Salem, OR: Department of Revenue, 1999), 1; Budget and Management Division, *Tax Expenditure Report* (2010), 1.

<sup>293</sup> Budget and Management Division, *Tax Expenditure Report* (1996), 1.



constrained. Having these numbers allow the financial costs to be weighed against the benefits of the Program. Table 5.3 shows the annual amount of property tax exempted and the annual loss in property tax revenue resulting from Special Assessment.<sup>294</sup> In 2009, the total assessed value enrolled in the Program was less than that of numerous other special assessment and outright exemption programs. For example, the assessed value of Private Farm and Logging Road property is about the same as Special Assessment, though those properties are exempted from property tax without purpose stated by the Department of Revenue. Another example is religious property, which includes parking lots and other ancillary properties. The value of historic property enrolled in the Special Assessment Program is about one-fifth of the assessed value of religious properties that are completely exempt from property tax.<sup>295</sup>

The revenue loss figures shown in the *Tax Expenditure Reports* for the Special Assessment Program appear artificially high compared to the data in the SHPO office. The Reports show an amount of exempted value that is higher than the total amount of assessed value enrolled in the Program, suggesting that revenue loss may be lower than indicated in Table 5.3.<sup>296</sup> Furthermore, because it is a snapshot in time, the *Tax Expenditure Report* does not account for the increased assessed value that results from expiration from the Program. Any property tax increases that result from participation in the Program over the long-term are not reflected in the *Reports*. That said, the data provided in Table 5.3 provide the cost of the Special Assessment Program as calculated by the State.

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<sup>294</sup> The annual loss numbers are half of the biennium numbers provided in the Tax Expenditure Reports.

<sup>295</sup> Budget and Management Division, *Tax Expenditure Report* (2010), 262, 282.

<sup>296</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

**Table 5.3** Annual Property Tax Loss and Exempted Value for All Counties. Data source: *Biannual Tax Expenditure Reports, 1996-2010*.

Biennium	Total Annual Revenue Loss	Total Value of Property Exempted
1997-1999	\$3,800,000	\$292,600,000
1999-2001	\$5,700,000	\$439,000,000
2001-2003	\$6,500,000	\$439,000,000
2003-2005	\$8,250,000	\$607,000,000
2005-2007	\$13,850,000	\$1,000,000,000
2007-2008	\$13,000,000	\$1,000,000,000
2009-2011	\$8,850,000	\$590,000,000

### Summary

Participation rates, average assessed value of participating properties, a comparison to the federal incentive, and an understanding of the tax expenditure are necessary measurements for evaluating the attractiveness of Special Assessment as an incentive program. Combined with the benefit equation and case studies, these numbers provide measurements for charting the trends in the program and evaluating its effectiveness. The numbers presented in the previous sections indicate that Special Assessment is declining in participation (both in number and as a rate) and is trending towards use by higher-valued properties than in the past. Furthermore, when compared to the federal incentive, it is clear that other programs have maintained relative stability over the same period that Special Assessment has seen a decline in participation. Finally, the revenue loss numbers can be compared to the amount expended through the federal program and weighed against other expenditures, a critical measurement in weighing the value of preservation in Oregon.

With declining participation, a higher assessed value for those few properties entering the program, more federal dollars now going towards preservation in Oregon than the Program provides, and an annual revenue loss comparable to just a fraction of a percent of all property tax revenue, the Program has clearly been on the decline since the mid-1990s. The numbers alone show that the Program is less attractive and representative is less than it once was, even though it has never come close to a universally used incentive.

## THE SPECIAL ASSESSMENT INCENTIVE

Since 1975, Special Assessment has provided an incentive to both local governments and property owners to preserve significant privately owned historic properties. For participating properties, the Program achieves all five of the incentive purposes listed at the beginning of this chapter. That said, the changes to the program and impacts of Measure 50 have been detrimental to the incentive provided to both governments and private property owners in their pursuit to preserve significant historic private property. Today, fewer properties than at any point since the mid-1980s participate in the Program. While the text of the legislation encourages all five of the incentive purposes, the benefit offered is inadequate to achieve a realization of the goals beyond the few properties enrolling in Special Assessment each year. The question of this thesis is whether or not the Program provides an incentive to property owners and governments. In 2011, it only provides a limited incentive for the preservation of significant privately-owned historic resources.

### Incentive to Governments

Oregon's Special Assessment of Historic Property Program provides an incentive to governments through the continued preservation and active rehabilitation of significant historic properties. Regardless of the period, participants in Special Assessment have contributed to the satisfying of the Goal 5 expectation that significant historic properties be preserved at a local level. The availability of the incentive alone counters land use and regulatory hurdles to preservation, offering a legal balance to economic hardship and property rights claims. Although many governments have codified regulations for the protection of National Register properties, many others have not. Special Assessment provides a carrot for counteracting land use policies and property rights arguments that could otherwise lead to the demolition of historic properties. Furthermore, no local government has forbid the second term option for residential properties since becoming an opt-out system in 2009, suggesting that the tax expenditure is not something that local governments oppose.<sup>297</sup> The tax expenditure of the program stood at \$8,850,000 in 2009,

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<sup>297</sup> Susan Haylock, "Special Assessment of Historic Properties Program, Second Term."

distributed around Oregon. Although highest in Multnomah County, the average county expends less than a few hundred thousand dollars per year to support the Program.<sup>298</sup> Ultimately, the tax expenditure of Special Assessment in 2009—the most recent year for which data is available—amounted to just .1781 percent of the total property taxes collected in Oregon, \$4,969,000,000.<sup>299</sup>

The tax expenditure of the Program should be weighed against the benefits of preservation to determine the incentive to governments. Description of these altruistic and tangible benefits need not be repeated here, but the *Special Report on Healthy Historic Districts* and the “Report of the Task Force on Historic Property” provide two recent studies on the triple bottom line sustainability benefits being achieved by historic preservation in Oregon.<sup>300</sup> Since the expectation of preservation and renovation plans became a part of Special Assessment in 1995, the Program has been more of an incentive to government at achieving rehabilitation and broader societal goals such as reinvestment, accessibility, energy efficiency, and environmental protection through preservation. Although the *Tax Expenditure Reports* do not show it, the raise in property tax resulting from reinvestment cannot be understated especially since the passing of Measure 50.

The expiration of the Open House requirements in 2009, however, removed a clear incentive to governments. According to Susan Haylock of the SHPO, the open house requirement brought an average of ten visitors per property per year to properties participating in Special Assessment. Although some property owners informed SHPO that no visitors attended their open houses for the entirety of their 15-year participation, others reported up to 200 visitors in a single year. The lower visitation numbers were in more frequent in rural places, while the highest numbers were typically achieved in conjunction with larger local events in urban centers. Among other locales, Independence, Albany, Salem, McMinnville, and Ladd’s Addition in Portland organized

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<sup>298</sup> Budget and Management Division, *Tax Expenditure Report* (2010), 306.

<sup>299</sup> Oregon Department of Revenue, “Oregon Property Tax Statistics: Fiscal Year 2010-11,” (Salem, OR: State of Oregon, 2010), 3.

<sup>300</sup> Historic Preservation League of Oregon, *Special Report on Healthy Historic Districts* (Portland, OR: Historic Preservation League of Oregon, 2010); John Tess, et. al., “Report of the Task Force on Historic Property.”

annual house tours corresponding with the Special Assessment open house requirement to bring historic preservation to the public in meaningful ways. Additionally, Portland, Albany, Salem, Independence, and Corvallis often had higher attendance due to the fact that local newspapers regularly published the open houses dates. According to Haylock, in most cases the open house attendance was highest in the initial years of a property's participation in Special Assessment and lowest in the last.<sup>301</sup> In more-recent years, the total annual per-county attendance at open houses ranged from two in Crook County in 2007, to 1,043 in Multnomah County in 2008, to a more average 220 in Lane County in 2009.<sup>302</sup> Although some viewed the open house requirement as a safety concern for property owners, the requirement gave the general public regular access to the Program, offering the potential for community development, education, heritage tourism, and transparency.<sup>303</sup> Without the open houses, the Program provides less of a benefit to governments, taxpayers, and visitors alike.

Another area where Special Assessment fails to provide an incentive, especially since the passage of Measure 50, is in parts of the state with low growth in assessed and real market values. Because the benefit of Special Assessment is in the increment of assessed value change over the participation period, Special Assessment is not as financially beneficial in economically stagnant parts of the state as it is in hot markets. Additionally, the Program conflicts with tax increment financing and other innovative property tax programs, making Special Assessment a disincentive in urban renewal areas for example. Pendleton provides an example of a local preservation strategy that has achieved broader utility than Special Assessment, providing property owners with a choice between the two competing programs. In Pendleton's case, owners are largely choosing urban renewal funding over Special Assessment.

Finally, the actual tax expenditure for local governments is not fully known because the change in assessed value resulting from participation is not directly tracked. Although assessors have raised critiques of the Program in the past, in 2011

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<sup>301</sup> Susan Haylock, conversation with author, Salem, OR, March 16, 2011.

<sup>302</sup> County-by-county Special Assessment open house attendance, Special Assessment Files, State Historic Preservation Office, Salem, OR.

<sup>303</sup> John Tess, et. al., "Report of the Task Force on Historic Property."

administration of Special Assessment is of larger concern to many jurisdictions. According to Sally Brown of the Multnomah County Assessment and Taxation office, “Multnomah County does not oppose Special Assessment, but regularly has questions as to how to administer the program and assure compliance.”<sup>304</sup> As of 2009, local governments are expected to provide design review and compliance review where available, resulting in both additional expenditure and the ability of local governments to have more local design review authority. According to many government stakeholders interviewed for this thesis, the Program has led to an overall increase in the assessed values of properties that have participated in the program. Because of the increased improvement values to individual properties and the ripple effect of improvements to surrounding properties and neighborhoods, Earl Blumenauer states, “If we could go back and calculate the total increase in property tax revenue brought by the program, there would be no question that it was a success for the tax rolls.”<sup>305</sup> Additionally, many properties in the post-Measure 50 era have seen higher assessed values after their period of Special Assessment than they would have had they not participated in the Program at all. Although this increase in assessed value may be an incentive for governments in a revenue measurement, it is a disincentive for property owners and will be discussed in the next section.

Ultimately, the relatively low tax expenditure of the Program for being Oregon’s primary incentive for preservation makes it an incentive for governments to preserve significant private property. The five goals of incentive programs are inherent in Special Assessment and are legitimate goals of government. That said, the incentive offered to owners has been lessened causing a reduced incentive, through participation, to governments.

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<sup>304</sup> Sally Brown, interview by author, Portland, OR, February 11, 2011.

<sup>305</sup> Blumenauer, interview.

## Incentive to Property Owners

Oregon's Special Assessment of Historic Property Program provides an incentive to owners of significant historic properties, however the incentive is considerably weakened, less utilized, and more unpredictable than in the years prior to 1995. In 1980, SHPO employee David Powers was cited in one national publication as stating that, "High property taxes and the straightforward nature of the Oregon law enabling a property owner to know what the property tax will be are the two main reasons the law has been used so often."<sup>306</sup> Since then, two things have happened: property tax growth was largely limited due to ballot Measures 5 and 50 and the straightforward nature of the Program has become much more complex.

From 1975 to 1994, the Program provided an incentive to property owners of significant historic property to designate their properties on the National Register of Historic Places and receive a defined incentive for maintaining and reinvesting in their property. According to John Tess, preservation consultant and chair of the 2008 Task Force, the "initial bill was to deter demolition, and provide for general preservation."<sup>307</sup> With a rapidly increasing number of National Register listings and a generally increasing percentage of eligible properties participating in the Program, Special Assessment was effective in achieving all five of the preservation purposes. Although participation peaked at about 25 percent, it represented a significant achievement for countering land use and regulatory forces over a substantial period (15 years). The passage of Measure 5 and the resulting public backlash against the Program in the early 1990s began to lessen the attractiveness of the Program because of the hostile and unpredictable environment of the early 1990s. Measure 50 in 1997 impacted the Program in a direct way, reducing the potential financial benefit through a complex series of equations. Furthermore, the Measure resulted in uncertainty as to the long-term financial costs and benefits of the Program because of the use of a reassessment calculation subject to the volatility of market forces. Without clarity of the benefit to be received from participation, all five of the purposes of a preservation incentive become moot. A five percent participation rate is indicative of this.

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<sup>306</sup> Powers, "State Historic Preservation Tax Structures," in Andrews, 109.

<sup>307</sup> John Tess, interview by author, Portland, OR, February 4, 2011.

Since 1997, Special Assessment has provided a limited financial incentive to property owners. While the Federal Historic Preservation Tax Incentive provides an immediate return of 20 percent of qualified rehabilitation expenditures to the party performing the rehabilitation, Special Assessment has always stretched the benefit of preservation work over ten or fifteen years. As evidenced by the condominium owners in the Wickersham, some property owners are rewarded for the completion of preservation/renovation plan items that they did not themselves complete. That said, the Program once only required general maintenance, so this transferred benefit is not necessarily a flaw, but a consideration for the equity of rewarding the rehabilitation objective. Additionally, property owners are faced with the potential for substantial increase in assessed value after their Special Assessment period expires. That some property owners could see tax bills higher than if they had not participated in the Program in the first place is an actual and perceived disadvantage and stands as the most significant hindrance to the effectiveness of Special Assessment's effectiveness at the time of this writing. Because property owners are not definitively able to calculate the long-term financial benefit of enrollment in Special Assessment—and that the benefit does not correspond to the amount of money invested—the Program is inherently complex and inequitable. Furthermore, because property owners in jurisdictions with low growth in assessed value are not compensated as much as property owners in historically hot markets, the dollar-for-dollar benefit for the same amount of work is not the same. Finally, because Senate Bill 192 reduced the length of Special Assessment from 15 to 10 years, the length of the financial benefit computation has been reduced. The confusion over second term applications to the program since 2009 further diminishes the attractiveness of participation in the Program and therefore the achievement of Special Assessment's preservation goals.

In all periods of the program's history, it has allowed for a contract between property owners and the public to ensure that private property receiving the incentive be maintained and preserved to a minimum standard. Although the removal of the open house requirement in 2009 limited the transparency of this contract, the Program has always allowed property owners to know that for the period of Special Assessment they would be obligated to meet preservation standards. Local regulations frequently change



and property rights arguments regularly lead to spot demolitions, making Special Assessment an important tool in the long-term preservation of property. The value of Special Assessment in countering land use policies and the additional burdens of regulations can be seen in landmark court rulings like Penn Central as well as the preservation-oriented perspectives of homeowners like the owner of the Gray House.

Since 1995, Special Assessment has provided a framework for property owners to preserve and renovate historically significant properties, a positive incentive to property owners during a time in which the Program has become less of an incentive due to external ballot measures. As evidenced by the Nicolai-Cake-Olsen and Gray House case studies, property owners benefit from the assistance of SHPO staff and a document that obliges both them and future owners to adhere to preservation standards.

Ultimately, Special Assessment continues to serve as an incentive to some property owners. The goals of the program are aligned with the five incentive purposes identified in this thesis, but enrollment has fallen since the 1990s due to a severe reduction in the actual and perceived financial benefit. Participating properties are being rehabilitated and theoretically compensated for choosing the path of preservation over the paths of demolition, neglect, or noncompliance. For properties in growing real estate markets, the program continues to provide a limited financial benefit for the period of enrollment, but the unpredictability of RMV and CPR for the year of expiration provide unknowns that make Special Assessment a disincentive for some. Properties in slow growth markets or in need of only routine maintenance—something that can be costly when working with historic buildings—are not largely incentivized by the Special Assessment Program.

## **CHAPTER VI CONCLUSION**

### **CONCLUDING THOUGHTS**

Oregon's Special Assessment of Historic Property Program has served as an incentive that provides structure and financial assistance for the maintenance, rehabilitation, and preservation of private historic properties in Oregon since 1975. Participation numbers alone prove that the Program committed a fair number of the owners of significant historic properties to preserve and protect them in the early days of Oregon's historic preservation movement. However, the incentive has shifted greatly since Special Assessment became law more than three and a half decades ago. The Program is not nearly as applicable, financially beneficial, or well used as it was in its first two decades. Because of direct and indirect challenges to the Program since 1990, and especially in the wake of 1997's Measure 50, the Special Assessment Program in 2011 provides considerably less of an incentive to governments and property owners alike to preserve privately owned significant historic resources than it once did. In 2011, the Program still provides a limited incentive to some property owners and governments, but the benefits are largely masked by the complexity of the Program and must be evaluated on a case-by-case basis. If current participation trends continue, the Program will continue to fall out of favor and be largely used by urban commercial properties in need of major rehabilitation that use Special Assessment as just one of a slate of incentive programs necessary to complete such large-scale projects.

While the historic preservation movement was born in the mid-1800s as a reaction to the loss of prominent monuments and homes associated with America's Founding Fathers, the movement today encapsulates the fundamental tenants of sustainability. Historic preservation fosters a local, active economy; maintains cultural values and is inclusive of diverse social groups; and conserves energy and infrastructure. Although this thesis could have provided more data about the triple bottom line benefits of historic preservation, with the plethora of current scholarship on the topic I felt it was unnecessary to go into great detail on this topic. That said, the historic preservation movement must continue to qualify and quantify the value of historic structures and their

long-term preservation. I encourage others to pursue research that continues to provide emergent findings in these areas. This thesis—along with the “policy” section of the Special Assessment statute—relies on continuously expanding data to show the many values of historic preservation in relation to other activities and concepts.<sup>308</sup>

Chapter III of this thesis provided a framework for the American preservation movement from the early days of the Republic up until 1975, the year in which Special Assessment was signed into law in Oregon. Although a number of changes and innovations have occurred at the federal level and in other states, the Special Assessment Program has followed a course chartered by the people of Oregon through—at times—vocal opposition and sweeping property tax limitations. One significant program that appeared just after Special Assessment and was mentioned in Chapters III, IV, and V was the Federal Historic Preservation Tax Incentive program. Although the federal incentive has seen minimal, yet steady, utility in Oregon—ranging from one to 15 projects per year since the early 1980s—its economic impact today rivals that of the Special Assessment Program. Although Special Assessment had over 500 properties participating in 2010, the federal program provided several times more money to preservation activities than did Special Assessment in that year. While the qualifying federal projects are limited to significant commercial rehabilitations, for the Special Assessment program to have become so complex that the federal program now injects more monies into Oregon’s historic buildings is a clear indicator that Special Assessment is not broadly providing for the achievement of all five preservation incentive purposes. If Oregon is to continue to claim a leading stake in the sustainability movement, historic preservation must return to a forefront of economic development, environmental protection, and social policy through not just regulations and idealism, but through financial incentives that push the private sector to do right by the state’s significant heritage.

As identified early in this thesis, historic preservation incentives are meant to achieve one or more of the following five objectives:

1. Ensure care and protection of historic properties;

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<sup>308</sup> According to ORS 184.421, “sustainability defined,” sustainability means “using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.” the

2. Counteract land use patterns that threaten historic properties;
3. Stimulate rehabilitation;
4. Make historic preservation competitive with new construction; and,
5. Compensate for the imposition of regulations.

When looking at the text of the statute, Special Assessment is intended to accomplish all five objectives. In 2011, however, it only accomplishes these objectives on a case-by-case basis of participating properties. In some cases—primarily when properties are faced with higher tax burdens than if they had not participated at all—Special Assessment actually serves as a disincentive. Although a few exceptional cases of demolition by neglect and voluntary removal from the program have occurred over the history of the Program, these cases are rare, and therefore participation in the program almost always meets the objective to preserve and care for historic properties. Because of the voluntary restriction of property rights and, since 1995, the existence of preservation/renovation plans, participating properties are given a level of protection and structure that is typically stronger than local regulations. In many communities across Oregon, local regulations are weak or non-existent, making participation significant in meeting the second objective of incentive programs. Ultimately, the language of the Program is aligned with all five incentive goals but the complexity and modesty of financial benefit is proving to be inadequate for the Program to serve an incentive to property owners as it once did. The incentive provided to governments in many ways directly follows the incentive provided to owners, and as participation falls so too does the benefits to local governments—benefits that go far beyond the tax expenditure, which in the most-recent data amounts to just one-fifth of one percent of the total property tax collected.

The research provided in this thesis will ideally prove useful for the greater historic preservation field. A number of complimentary and competing incentive programs are available for the stewardship and rehabilitation of significant historic properties, not all of which provide for all five incentive purposes. Because different incentives have different goals, this thesis touches on the idea that an offering of multiple programs is beneficial to allow property owners to access incentives appropriate to the

specific property. While an 1890s resort residence in a harsh climate may need regular ongoing maintenance, an urban unreinforced masonry factory building may need significant one-time rehabilitation and seismic stabilization. The availability of conservation easements, revolving loans, grants, and other local programs provide a piece of the incentive pie useful for different small-scale preservation situations. The Federal Historic Preservation Tax Incentive program has provided significant infusions of income tax credits into large commercial rehabilitation projects. In theory, the Special Assessment Program rests between the local and federal monies, providing a modest benefit to properties across the state and achieving all five goals to at least a minimum extent. Special Assessment provides for structure around the ongoing preservation and rehabilitation of historic properties, conditioned on minimum levels of investment and compliance with accepted preservation standards. Special Assessment is the piece of the incentive pie that is applicable to all significant historic properties in the state, compensating for local governments that do not offer local incentives and adding to the additional incentives provided by preservation-minded communities.

Because tax limitation measures in Oregon and other states have lessened the burden of property tax, Special Assessments are typically less lucrative for property owners than they once were. Furthermore, the complicating of the property tax landscape and the reduction of incentive programs places further burdens on local communities to institute restrictive regulations, something that is not accepted as an appropriate balance of rights and responsibilities in all parts of Oregon or the United States. Because of owner consent issues and the slow or negative growth of property values in rural communities, Special Assessment programs should be designed to incent property owners typically wary of regulations into a long-term preservation program. Because more federal money is today injected into Oregon through a small handful of rehabilitation projects than Special Assessment injects into a large pool of participating properties, the program is undersized for what the state should offer for preservation incentives. Since not all historic properties are in locales where preservation incentives are offered, statewide incentive programs are especially significant. The benefit offered by Oregon's should, at a minimum, be returned to the more universal benefit present in the pre-Measure 50 era.

Bolstering the incentive offered will lead to a direct increase in the attractiveness of the Program and thus a realization of the preservation objectives inherent in the legislation.

## **RECOMMENDATIONS**

Based upon the totality of interviews and analyses conducted for this thesis, several recommendations should be considered by preservationists and policy-makers. Restoring a simple Special Assessment Program that incorporates the preservation and renovation objectives passed in 1995 should be a first priority for strengthening the incentive program. The thoughtful changes implemented in 1995 necessitating preservation and renovation plans were countered by Measure 50's weakening and complicating of the financial benefit. In order to return to an incentive that meets all five of the incentive purposes, Measure 50 would have to be repealed or significantly rewritten. Although several Measure 50 band aids were explored by the 2008 Task Force on Historic Property, the inherent inequities present in assessed value in 1997 and the uneven growth of RMV since then cannot be remedied without a complete overhaul of the Measure. To encourage increased participation, property owners should be able to clearly calculate the benefit they will receive from an incentive program, especially if they are being required to make a minimum level of investment, as has been the case since 2009. Without being able to definitively know the financial benefit or long-term costs of a program, it is no surprise that participation has been on the steady decline. For Special Assessment to be an unhindered incentive for both governments and private property owners, the root problem must be addressed: Measure 50.

If Measure 50 is not rewritten or repealed, an alternative program to incentivize historic preservation should be supported at the state level. While the Preserving Oregon Grant and Historic Preservation Revolving Loan Fund should be maintained or bolstered, a historic preservation tax credit program stands as the obvious—and most mentioned in interviews for this thesis— supplementary incentive program to support the preservation of private property. As of May 2011, 31 states offer tax credit programs for the rehabilitation of significant historic properties in private ownership. Although each of them are a little different, the state tax credit programs largely complement the federal

program and provide a clear, up-front incentive for rehabilitation work.<sup>309</sup> Tax credits for rehabilitation, while they do not necessarily foster the ongoing maintenance and stewardship needed by historic properties, support preservation on a dollar-to-dollar basis, not favoring hot real estate markets or penalizing properties that had a comparatively low assessed value in 1997. Because the chances of rewriting or repealing Measure 50 are unlikely in the near future, preservationists should strive for an alternative tax credit program, allowing property owners to choose between participating in the ten-year Special Assessment or accessing a one-time rehabilitation tax credit to provide varied avenues for achieving preservation goals.<sup>310</sup>

An additional recommendation—although merely a patch—is the revision and clarification of the second term benefit computation instituted in 2009 and interpreted by the Department of Revenue’s subsequent Administrative Rules. Because of the expectations of investment and the ongoing needs of historic properties, second terms of Special Assessment should not be valued less than first terms. Furthermore, since the Program did not require preservation or renovation planning until 1995, many properties that have participated in the Program still need reinvestment due to a number of factors. Property owners wishing to enroll in a second term and meet the standards set forth in the language of Special Assessment should not be penalized just because their property may have received a benefit as long ago as the 1970s and ‘80s. The Administrative Rules should be clarified immediately as to lessen the penalty to second term applicants. A legislative fix should thereafter be passed to restore the second term equation to equal that used for first terms.

Further research should be completed in a number of areas, but one rises to the top. County assessor data should be collected for each property that has participated in Special Assessment and analyzed by a qualified individual or group to determine dominant trends. Having complete sets of data to compare “before” and “after” assessed values against countywide averages would allow preservationists, assessors, and

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<sup>309</sup> National Trust for Historic Preservation, “State Rehabilitation Tax Credits,” National Trust for Historic Preservation, <http://www.preservationnation.org/issues/rehabilitation-tax-credits/state-rehabilitation-tax.html> (accessed May 10, 2011).

<sup>310</sup> Ideally, any alternative incentive option would have at least a ten-year stewardship expectation to mirror that of the Special Assessment compliance period.

legislators to better understand the true tax expenditure and true financial benefit of the Special Assessment Program. Although these data were pursued in the initial research for this thesis, the cost of staff research time, the need for a statistical analysis background, and the sheer volume of data quickly turned me away from meeting this research need. That said, the collecting of data on all 2,316 properties that have participated in Special Assessment is a worthwhile goal and should be pursued by the SHPO and county assessor's offices through an appropriation of lottery or other funds and the retention of a qualified consultant.

According to Cathy Galbraith, Executive Director of the Bosco-Milligan Foundation, "Special Assessment was bold and visionary in 1975."<sup>311</sup> And when looking at what other states and the federal government were doing at the time, it was. But in 2011, with participating property owners stating, "there's no benefit for the average residential property owner," the Special Assessment of Historic Property Program provides only a limited incentive to property owners and governments.<sup>312</sup> In many cases the Program does still function to support the preservation of significant historic properties—over 500 places were being preserved at a high level in 2010 thanks to the Program—but participation is rapidly declining and the statewide tax expenditure for the Program is lower than what even the federal government expends to incentivize just a handful of projects every year in Oregon.<sup>313</sup> To maintain a leadership role in sustainability, Oregon needs to continue to support historic preservation through clear and simple incentive programs. But, as stated best by now-Congressman Earl Blumenauer, "There aren't more than three people who fully understand the property tax system [after Measures 5 and 50]."<sup>314</sup> The inequitable and complicated benefit equation that resulted from Measure 50—not to mention the countless other negative impacts on local communities—significantly reduced the Program's attractiveness, requiring eligible property owners to enroll in a program with only limited information about the financial savings they will receive over the long-term. The widespread realization of any

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<sup>311</sup> Galbraith, interview.

<sup>312</sup> Interview with Gray House property owner.

<sup>313</sup> State of Oregon, State Historic Preservation Office, *Special Assessment Microsoft Access Database*.

<sup>314</sup> Blumenauer, interview.



of the five goals of incentive programs cannot be met by Special Assessment under this confusion.

Special Assessment is a limited incentive to private property owners and governments to preserve significant historic properties. Measures should be taken to at a minimum return it to the more universal and simple incentive that it was in the past.

**APPENDIX A**  
**GLOSSARY OF ACRONYMS AND ABBREVIATIONS**

AV- Assessed Value

CPR- Changed Property Ratio

HABS- Historic American Building Survey

IR- Internal Ratio

National Register- National Register of Historic Places

MAV- Maximum Assessed Value

MSAV- Maximum Specially Assessed Value

NHL- National Historic Landmark

NTHP- National Trust for Historic Preservation

ORS- Oregon Revised Statutes

The Program- Special Assessment of Historic Property Program

TIF- Tax Increment Financing

RMV- Real Market Value

SAV- Specially Assessed Value

SHPO- State Historic Preservation Office

Special Assessment- Special Assessment of Historic Property Program

**APPENDIX B**  
**NICOLAI-CAKE-OLSEN HOUSE PROGRESS REPORT**

September 30, 2006

Parks and Recreation Department  
 State Historic Preservation Office  
 725 Summer St. NE, Suite C  
 Salem, OR 97301-1271

Attn: Susan Haylock, Preservation Specialist

Dear Ms. Haylock:

This letter constitutes our report of progress against our preservation plan which was submitted on March 20, 2001, as part of our application for the Special Assessment of Historic Properties Tax Benefit program. In reporting our progress against our time-line plan, we will use the original time-line, which was developed under the review schedule then in effect: 2004, 2007, 2011, and 2013.

In summary, before a detailed enumeration of work completed, we can say that the largest amount of the project work originally contemplated has been completed. The major historic restoration of the living room and dining room spaces was completed in early 2003 – a project which won the award “Best Historic Restoration for 2003” from the Oregon Remodellers’ Association for the contractor who performed the work.

To date, we have expended well in excess of \$100,000 on restoration projects under our preservation plan – compared to the original estimate of \$81,850. While we intend to complete most of the remaining pieces of the plan, we are submitting a request for modification on several items based on our subsequent review of costs and restoration options.

In the sections below, we present the original plan elements and the current status of each, grouped into the 4 review periods from that original plan:

<b>Name of Project</b>	<b>Status</b>	<b>Comment</b>
<i>Projects for Three Year Review - 2004</i>		
Furnace and hot water heater replacement	Completed 2002	High efficiency furnace and high capacity water heater – see photo
Window restoration with sash-mounted storms	Work completed in two phases: first floor in 2002, second floor in 2005	Performed exactly as described on page 6 of the preservation plan – See photo
Storm doors on dining room, back kitchen, and balcony doors	Balcony storm/screen door replaced 2005, others deferred to 2007	Reprioritization of project budget
Replacement of second floor balcony roof and brick balustrade	Tarred surfaces have been re-coated. Structure continues to be watertight	We request delay in any further action on this area until we undertake necessary exterior stucco repairs in 2007/8 time frame

**Figure B.1** Nicolai-Cake-Olsen House Progress Report Page 1.

<b>Name of Project</b>	<b>Status</b>	<b>Comment</b>
Garage door replacement	Completed 2005	See photo
Patching and repairing cement stairs from sidewalk to walkways	Deferred due to city requirement for major repairs to city-owned sidewalks. Now planned for 2007-8	The portion of the front stairs abutting the public sidewalk had to be replaced in 2005 per city order. See photo
Installation of exhaust vents for both bathrooms	Installed for original bath in 2005, not installed for new master bath. Not required per code.	After review with contracting architect, the vent for the new master bath would have required a non-historic ventilator projecting through the wall to the outside on the street side of the house.
Installation of period appropriate hardware on dining room built-ins	Part of interior restoration completed January, 2003.	See photos
Phase I of woodwork restoration project	Part of interior restoration completed January, 2003.	Both Phase I (scheduled for 2004) and Phase II (scheduled for 2007) were done in one project to minimize total cost and disruption.
<i>Projects for Six Year Review - 2007</i>		
On-demand hot water heater for master bathroom	Project dropped	Rerouting hot water pipes as part of installing the new hot water heater cut delays in hot water flow enough to eliminate need for this project. Request permission to drop this project.
New reproduction window for main (original) bathroom	Scheduled for 2007/8	Future project
Phase II of woodwork restoration project	Completed January, 2003	See note above.
Replacement of composition roof shingles with cedar shingles	Roof replacement scheduled for 2008/9	Request for a variance from the original plan to replace roof with cedar shingles.
Replacement and updating of gutters and downspouts	To be done concurrently with roof replacement	See above.
Re-flashing roof opening and chimneys	To be done concurrently with roof replacement	See above.
<i>Projects for 10 Year Review - 2011</i>		
No projects scheduled for this period		

**Figure B.2** Nicolai-Cake-Olsen House Progress Report Page 2.

We have received a quotation for the removal of the stucco exterior cladding which covers the original cedar shingles (and was applied in 1927). In our original preservation plan, we elected not to commit to the stucco removal due to the anticipated cost. The quote for removing the stucco and restoring the shingled exterior was for \$135,000. This amount is very much in excess of our budget. We have decided to proceed as finances permit with restoration, repair and repainting of the 1927 stucco exterior surface.

One of the most problematic aspects of our original preservation plan was the replacement of the composite roof with restored cedar shingles. The Advisory Commission members questioned our decision on this relative to the potentially excessive cost. In examining this option further, the big consideration has not been cost so much as fire resistance. While cedar roofing shingles are produced with fire-retardant treatment, they are not only more expensive than standard shingles but are predicted to have a materially shorter service life. If installed now and if we continue to live in the house, their likely time of failure would be after we are past 80 years old and not likely to have the means to afford another roof replacement.

We have begun investigating alternative materials that have the appearance of cedar shingles but have greater life and much higher fire resistance. The product we have found to be most appropriate to our needs so far is called Enviroshake – a brochure for which is attached to this report.

A “Request to Amend Preservation Plan Form” is attached to this letter covering the following plan alterations (as mentioned in the table and narrative above):

1. Deletion of the project to install an on-demand hot water heater for the master bathroom
2. Rescheduling of storm door installation on the kitchen and dining room doors
3. Rescheduling of the rehabilitation of the second floor balcony flooring and balustrade until the stucco repair project is undertaken
4. Deletion of the vent fan for the master bathroom
5. Change in the roof replacement plan to employ shingle formed from fireproof recycled composite materials formed and textured to look like cedar shingles or shakes – comparable to Enviroshake.

Photos of the project work completed to date are provided in the pages which follow the body of this letter.

We look forward to the completion of these projects.

Regards,

--OWNER NAME REMOVED FOR ANONYMITY--  
The Nicolai-Cake-Olson House  
1903 NE Hancock Street  
Portland, OR 97212  
503-284-8481

**Figure B.3** Nicolai-Cake-Olson House Progress Report Page 3.

**Progress Photos for Nicolai-Cake-Olson House**

As of September 30, 2006



Figure 1 – View of living room showing restored stair landing and plate rail with wainscoting.

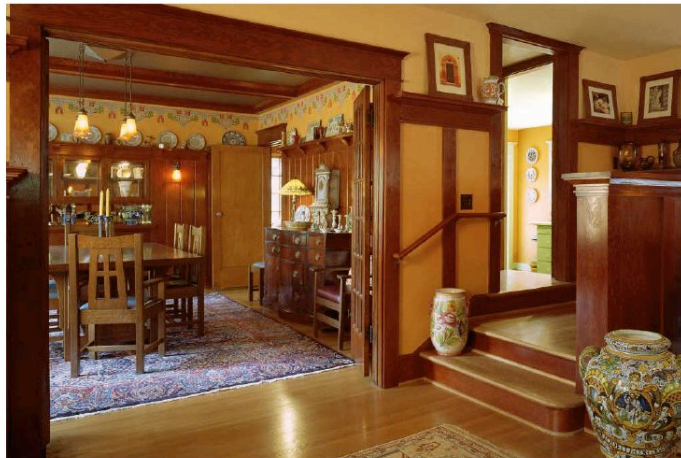


Figure 2 – View from living room into dining room showing restored stair landing and restored dining room plate rail. All woodwork, old and restored has been finished to the original color using historically appropriate orange shellac finish.

**Figure B.4** Nicolai-Cake-Olson House Progress Report Page 4.

**Progress Photos for Nicolai-Cake-Olson House (continued)**

As of September 30, 2006



Figure 3 – New garage door. This is a standard overhead door with modern track and opener mechanism, but with Craftsman Style carriage house door appearance. Per approval by SHPO from contractor's working drawings.



Figure 4 – Detail showing restored casement window in dining room, with closer bars found in basement.

**Figure B.5** Nicolai-Cake-Olson House Progress Report Page 5.

**Progress Photos for Nicolai-Cake-Olson House (continued)**

As of September 30, 2006



Figure 5 – Detail of exterior of restored living room casement window showing the unobtrusive wood-framed exterior storms directly mounted on the frame of the window. Restored original hinge is visible as well.



Figure 6 – Wood-framed storm/screen door replaced non-compatible aluminum storm door at the second floor balcony door. Wood framed glass storm insert can be attached with simple metal clips.

**Figure B.6** Nicolai-Cake-Olson House Progress Report Page 6.

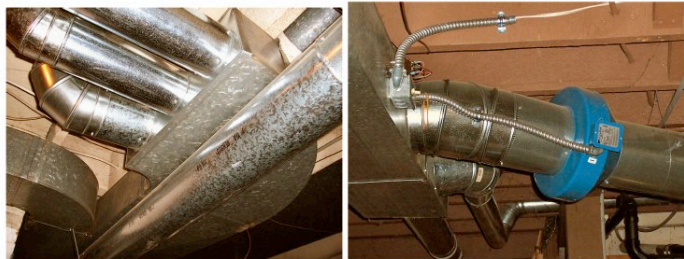


**Progress Photos for Nicolai-Cake-Olson House (continued)**

As of September 30, 2006



Figures 7/8 – New high capacity water heater, anchored to the basement wall per latest codes. High efficiency furnace uses plastic pipe for exhaust gases.



Figures 9/10 – When the furnace was replaced, ductwork was updated to reduce pressure loss and a supplementary blower was added to force warm air into previously under-heated areas of the second floor.



Figures 11/12 – Two views of city-mandated sidewalk repairs. On the left is the portion of the original red concrete replaced to meet city codes. On the right, a portion of the walk going to the curb (covered by city codes due to its contact with the curb), replaced but with the “673” original house number cut out of the old concrete and reinstalled in the new.

**Figure B.7 Nicolai-Cake-Olson House Progress Report Page 7.**

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