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A STUDY OF THE SPECIAL ASSESSMENT OF  
HISTORIC PROPERTY PROGRAM  
IN OREGON

by  
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A POLICY PAPER

Presented to the Department of Planning, Public Policy  
and Management  
of the University of Oregon  
in partial fulfillment of the requirements  
for the degree of Master of Science

December 1992

#### ACKNOWLEDGMENTS

The author expresses sincere appreciation to her committee members: Chairman William Simonsen, Don Peting, and Henry Kunowski, for assistance in the preparation of this paper. In addition, special thanks are due to my editor, Nancy Collins, and the members of the Task Force on the Special Assessment of Historic Property for their co-operation and support. I am also indebted to the staff of the Oregon State Historic Preservation Office for supplying me with all of the materials used by the Task Force during their investigation.

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## CHAPTER I.

### INTRODUCTION

#### A STUDY OF THE SPECIAL ASSESSMENT OF HISTORIC PROPERTY PROGRAM IN OREGON

##### The National Historic Preservation Act of 1966

###### Features of the Act:

The National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665, 80 STAT. 915, 16 U.S.C. 470), as amended, is one of the most important federal laws developed to mandate identification and preservation of the nation's cultural resources. It serves as the enabling legislation for the protection, conservation, and grant-in-aid program for historic resources through the creation of a legal and administrative framework which includes federal, state and local government. The Act and its amendments is administered at the federal level by the Department of the Interior, National Park Service. This legislation has had a significant impact on historic preservation. In part, the Act:

A. Established the National Register of Historic Places, which is the nation's most complete listing of its historic heritage. The distinctive feature of the National

Register is that it recognizes properties significant at all three levels: national, state and local. The Register is maintained by the Department of the Interior through the Keeper of the Register in the National Park Service, Washington, D.C.;

B. Created the Advisory Council on Historic Preservation (ACHP), an independent council with members appointed by the President. The ACHP and its staff are charged with reviewing and commenting on the effects of federal actions on historic resources;

C. Required all federal agencies to inventory historic resources within their respective jurisdictions, and to consider the recommendations of the ACHP when developing projects that would affect those resources; and

D. Created a program of federal matching grant-in-aid to be administered at the state level by a State Historic Preservation Officer (SHPO).

Duties of the State Historic Preservation Officer:

The SHPO recommends nominations of properties to the National Register of Historic Places, provides technical assistance, information and education on preservation and certifies local governments when the SHPO has determined that the local government has established its own historic preservation commission and a program meeting federal and state standards. In addition, the SHPO manages the state's inventory of historic properties, and administers the federal

Investment Tax Credit Program authorized by provisions of the Economic Recovery Tax Act of 1981 (Public Law 97-34).

The Oregon SHPO is also authorized to prepare a comprehensive statewide historic preservation plan and administer the state's only preservation incentive program: the Special Assessment Program of Historic Properties, for properties listed in the National Register of Historic Places.

### Historic Preservation Statutes in Oregon

#### Preservation Legislation:

Oregon's first statutory acknowledgement of the National Preservation Act was the Historic Property Tax Law of 1975 (Oregon Statute 358.475 et. seq.), which provided for special assessment, or favorable tax treatment, of properties listed in the National Register of Historic Places. The duties and responsibilities of the SHPO to conduct statewide preservation planning activities and to develop a comprehensive historic preservation plan under the federally-assisted program were acknowledged by executive order as early as 1971. However, it was not until the 1983 legislative session that the state's parallel enabling legislation was enacted as the Oregon Historic Preservation Plan (Oregon Revised Statute 358.605-.622). Implementation comes through Oregon Administrative Rule 736-50-010 through 100, which sets out the requirements for property owners participating in the special assessment of historic properties.

Land Conservation and Development Commission; Goal 5:

While the preservation plan legislation provides directives and encouragement, additional statutes and rules mandate integrating comprehensive historic preservation planning and historic resource protection in Oregon. The Land Conservation and Development Commission (LCDC) and the Department of Land Conservation and Development (DLCD) (Oregon Statute 197.005 et. seq.; Oregon Administrative Rule 660-16-001 through 003), are responsible for providing comprehensive statewide planning in accordance with nineteen specified goals. Goal 5 (3) (i) addresses historic preservation through the conservation of open space and protection of natural, scenic and historic (cultural) resources.

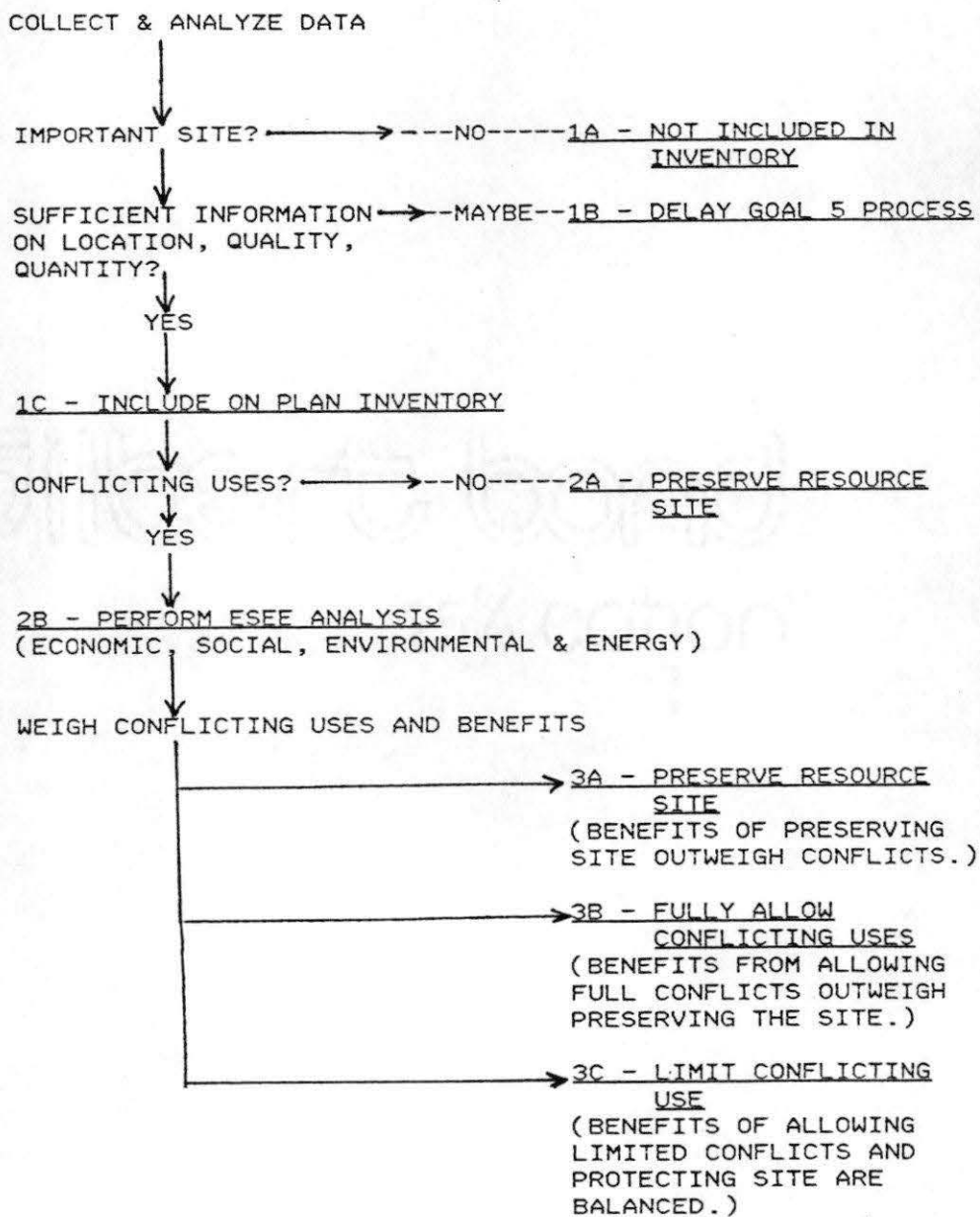
Goal 5 requires that historic resources be identified, evaluated and protected by management plans developed by local governments. These plans usually contain preservation policies and enabling ordinances to protect landmarks significant to each community. Historic resources include all types of individual or grouped structures, archaeological sites, landscapes, objects, and linear features such as trails, roads or canals. The current identification of Oregon cultural resources statewide includes the following:

<b>State Inventory of Historic Properties:</b>	
Historic resources:	20,000
Archaeological sites:	738
Historic shipwrecks:	385
<b>Resources listed in National Register:</b>	1,189
<b>Resources considered eligible for listing:</b>	2,779

Source: SHPO 1992

Figure 1 illustrates the review procedure used by local communities to comply with the provisions of Goal 5:

FIG. 1 - GOAL 5 PROCESS



Source: SHPO 1990

### Special Assessment of Historic Property Program:

Interest in tax incentive legislation for historic properties originated in Jackson County, Oregon. At the same time, a preservationist movement in Portland was also lobbying for an incentive to residential property owners to maintain and preserve. The intent of the bill was to protect owners from increased property tax assessments after they rehabilitated or restored their properties. The bill reached the state level in 1975, where it was presented as House Bill 2476 by Representative Brad Morris from Medford. Amendments subsequently expanded the bill to include commercial, industrial, farm, and multi-family properties. This bill was codified and became law (Oregon Revised Statutes 311.150 and 311.370) in 1975.

Additional preservation programs and laws were studied by the state in 1981. During 1983, the administration of the special assessment program was transferred from the county assessors to the State Historic Preservation Office. In 1985, the legislature extended the program's sunset date from December 31, 1985, to January 1, 1994, so that a comprehensive study of properties which had received the benefit for a fifteen-year period could be made.

The purpose of the program is to offer an incentive to property owners to maintain and preserve properties of historical significance. In order to be eligible to participate in the program, a property must be recommended for nomination for listing in the National Register of Historic

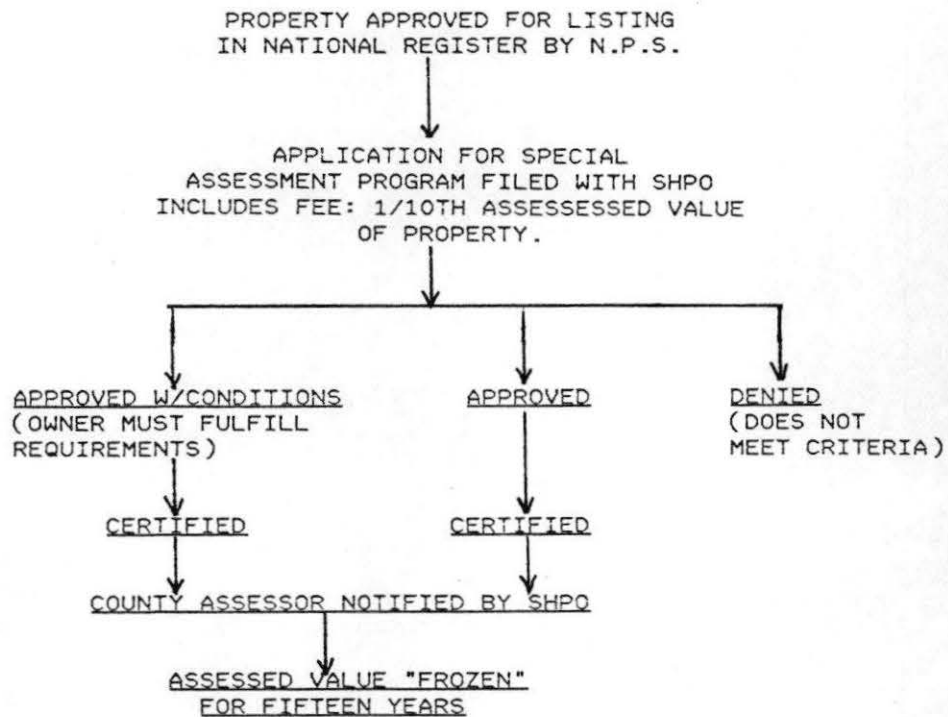
Places by the State Advisory Committee on Historic Preservation (SACHP), through the SHPO. The property is then approved for listing in the Register by the National Park Service in Washington, D.C.

After eligibility has been established, the property owner may apply to the SHPO for admittance to the program. This is a separate procedure from historic designation. If the application is approved, the property is certified, the appropriate county assessor is notified, and the real market value of the property is "frozen" at its current assessed valuation for fifteen years. This provides the owner with an incentive to maintain and rehabilitate the property without having to pay an increased assessment due to the resulting increase in the property's value until the end of the fifteen-year freeze period. At that time, the owner resumes paying property taxes on the fully-assessed (with improvements) rate, but does not have to pay back accumulated tax savings that occurred during the previous fifteen years.

The owner must comply with requirements to maintain the property, allow public visitation once a year, display a sign indicating that the property is listed in the National Register and is participating in the special assessment program, and submit any proposed alterations for design review by SHPO. Failure to comply means the special assessment can be revoked and all the tax savings, plus a penalty of 15% of those savings, must be paid by the property owner.

Figure 2 depicts the procedures necessary for participation in the program:

FIG. 2 - SPECIAL ASSESSMENT PROGRAM PROCESS  
(CURRENT THROUGH 1993)



- RULES FOR OWNERS:
- (1) PROPERTY OPEN FOR PUBLIC VISITATION ONE DAY PER YEAR
  - (2) SIGN IDENTIFYING PROPERTY AS BEING ON THE NATIONAL REGISTER AND IN THE TAX ASSESSMENT PROGRAM
  - (3) SHPO DESIGN REVIEW OF PROPOSED ALTERATIONS TO PROPERTY
  - (4) NON-COMPLIANCE MAY MEAN REMOVAL FROM PROGRAM WITH 15% PENALTY PLUS PAYMENT OF ALL BACK TAXES TO COUNTY
  - (5) AN OWNER CAN VOLUNTARILY REMOVE PROPERTY FROM THE PROGRAM WITHOUT PENALTY BY WITHDRAWING AND PAYING ALL BACK TAXES TO COUNTY
  - (6) IF (5) APPLIES, OWNER CAN REAPPLY IN FUTURE FOR ANOTHER 15 YEARS

## Statement of Problem

### Sunset of Current Legislation:

The legislative statute for the tax assessment program will end on January 1, 1994. There are several reasons why an investigation of this program is important to future preservation policy in Oregon:

1. The special assessment program is the only state-sponsored financial incentive for historic preservation. The state requires local governments to allow approved properties access to the benefit. Local governments also bear the costs of the subsidies. Since 1975, the Legislature has provided this subsidization to encourage community revitalization, economic development, resource conservation and a continuance of the quality of life that occurs with the preservation of the physical and cultural characteristics which define Oregon's communities.

2. Special assessment acts as a link between SHPO programs, which implement federal preservation guidelines through the NHPA, and Oregon's Land Conservation and Development Commission program directives. By freezing assessments on certified properties, the program provides a passive form of compensation to owners for the restrictions and responsibilities of maintaining or rehabilitating private properties designated as historic.

3. The rapid expansion of Oregon's tourism industry is directly associated with both the quantity and the quality of historic resources in the state. The regional economic

strategies of nearly one-half of Oregon's counties are focused on developing tourism in their local communities, because heritage tourism is ranked by visitors as one of the three most important reasons for traveling through the state. The other two are the state's natural beauty and stopping in small towns.

Task Force Mission:

In August 1991, a ten-member Task Force on the Special Assessment of Historic Property (TFSAHP) was formed by the State Historic Preservation Officer. The SHPO stated the mission for the Task Force as follows:

[E]xamine the current statute and 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>1</sup>

The report that resulted from the Task Force investigation will be presented to the Governor and the 1993 legislative session. Paralleling the Task Force work, the SHPO conducted an economic impact analysis of the program, which was funded through a grant from the National Trust for Historic Preservation Critical Issues Fund. The research for this economic study was performed under a sub-contract with the Government Finance Research Center (GFRC) in Washington, D.C. The preservation office also commissioned a special data base report from Market Trends, Incorporated, which analyzed

information from commercial and residential users of the program.

Task Force Composition:

The Chair and nine additional voting members of the Task Force were selected as representative citizens from different regions of the state who had extensive backgrounds in historic preservation, architecture, law, business development and taxation. They also represented different aspects of public concern with preservation incentives in Oregon. In addition, two ex officio members represented, respectively, the State Advisory Committee on Historic Preservation (SACHP) and the National Trust for Historic Preservation, Western Regional Office. The backgrounds represented on the Task Force were as follows:

- A. Task Force Chair: Historian, lecturer, and member of SACHP.
- B. Task Force Members:
  1. President of a statewide advocacy group for historic preservation and a developer specializing in restoration and rehabilitation of historic properties.
  2. Chairman of a downtown development task force and an investment manager specializing in historic buildings.
  3. Private developer and member of a trade and marketing center's site selection committee; past member of a historic landmarks commission.

4. Director of a downtown development association and member of historic city support association; past member of a landmarks advisory commission.

5. Attorney and past board member of a neighborhood association in Southwest Portland.

6. Director of a county museum and Oregon Visitors Association; past city councilor and chairman of a city historic resource review commission.

7. President of an architectural firm, chairman of a historic landmarks commission, and director of a historic district.

8. Supervisor of the exemptions section, county assessor's office, monitoring special assessment properties.

9. Executive director of a historic tourism coordinating council; past governor's liaison for Central and Eastern Oregon and an intergovernmental relations coordinator.

#### MEMBERS OF THE TASK FORCE

##### Chairman:

Dr. William F. Willingham, U.S. Army Corps of Engineers

##### Members:

Mike Byrnes, Historic Preservation League of Oregon  
Philip Lothian, Attorney at Law  
Gary Middleton, Historic Baker City  
Daniel Robertson, Douglas County Museum  
John Russell, Russell Development Company  
Bing Sheldon, SERA Architects  
Pamela Silbernagel, Albany City Council  
Steve Skinner, Multnomah County Assessor's Office  
Jill Thorne, Oregon Trail Coordinating Council

##### Ex-Officio Members:

Kathryn Burns, NTHP, Western Regional Office  
Ann B. Clarke, SACHP

## Summary of Task Force Findings and Recommendations:

The legislative report includes the findings and recommendations of the Task Force concerning thirteen program issues, a number of which are examined in greater detail in Chapter 6 of this study. The recommendations are summarized as follows:

1. **Re-authorization of the special assessment program** - The issue was whether to let the current statute sunset on January 1, 1994, to re-authorize, or to re-authorize with amendments. The program was found to be an effective incentive for preservation by itself and in combination with other programs. The Task Force recommendation is for a revised historic preservation property tax incentive program.

2. **Public benefit** - The issue was to explicitly define "public benefit," and focus the program recommendations around that definition. Inputs were received from government, staff and public testimony, which the Task Force used to draft the following statement to be included in any future legislative action:

"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 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."2

3. **Eligibility** - The issue was a review of eligibility standards for the program. A number of options were discussed, including: (1) creation of a new Oregon register of historic places, (2) setting a limit on the number of each type of property admitted to the program based on style, architect or historical significance, (3) retaining National Register listing as the standard, (4) using local historic resource inventories created for Goal 5 to qualify properties. The Task Force recommended that 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 program. Non-contributing properties may become eligible if upgraded and approved by the local landmarks commission.

4. **Tax incentive** - The issue was to define the nature of the proposed benefit. Public testimony and programs in other states were evaluated. Recommendations from the Oregon Association of County Assessors and others advocated the inclusion of indexing, or trending, of the frozen value of the property to allow it to rise or fall depending on market conditions. After an exhaustive examination of the pros and cons of this approach the Task Force recommended that indexing not be attached to the tax incentive program.

5. **Historic preservation plans** - The issue was to evaluate owner responsibilities and rehabilitation

requirements. After an evaluation of the current program, the Task Force agreed that both the intent of the law and public benefit would be better served by more strenuous preservation, rehabilitation, and maintenance requirements. The recommendation stipulates that a preservation or rehabilitation plan be filed by all properties applying to enter the program, and that SHPO approval is required. A deed covenant shall be attached to the property to inform new owners of program requirements.

6. **Public visitation** - The issue was the requirement for public visitation contained in the current statute. The Task Force found that this provision, in the form of an open house, was a significant disincentive to participation. In 1983, a statewide Task Force had recommended eliminating the requirement; no other state currently has an open house visitation requirement. The recommendation for new legislation is that property owners should be encouraged to make their properties available for neighborhood or educational group historic property tours, with access required for SHPO, the SHPO designee such as a Certified Local Government, or the SACHP.

7. **Application fees** - The issue was whether the program fee implemented in 1983 was adequate to offset projected administrative costs. The current fee of one-tenth of one percent of the property's real market value at the time of application was found to be insufficient for this purpose. The Task Force recommended that the fee be increased to two-

tenths of one percent in support of SHPO preservation plan review efforts; also, that a staff position should be funded to review preservation plans and conduct design review of proposed alterations and preservation projects. If this position cannot be funded then a substitute design review fee schedule is recommended and included.

8. **Re-application** - The issue was whether property owners should be allowed to leave the program, pay their back taxes and re-apply at a later date. It was found that voluntary removal and re-application help the program by allowing participants to leave and re-enter when they are better able to fulfill their preservation plan. The Task Force recommended that, at any time, property owners may pay back taxes plus interest at the prime rate, plus 1%. Owners may then re-apply for the program at a later date. Re-application is not be allowed under any other circumstances.

9. **Signs and interpretation** - The issue was whether to require signage on properties participating in the new program. The OAR changes of May 1991, require signs be placed on all participating properties. The Task Force found that signs and interpretive materials are an important educational public benefit for the community. It recommended that all properties participating in the program display SHPO approved signage, indicating the property's National Register listing, historic significance and other data. SHPO was instructed to co-operate with local governments which have existing sign

programs, to provide information on vendors and approved styles and to keep the cost to a minimum.

10. **Transfer of property tax benefit** - The issue was whether a property should continue to be eligible for participation in the program when it is sold to another owner. The finding was that transferability is important in making certain that the building is preserved. The recommendation was that the tax incentive status be transferred from owner to owner, providing the new owner continues to implement the preservation plan.

11. **Multiple Exemptions** - The issue was that the current statute prohibits property owners from benefitting from more than one special assessment or tax exemption at a time. The Task Force found that a non-profit organization or public agency cannot occupy a specially-assessed historic property without losing their non-profit status. This works in opposition to preservation incentives within the law. It was recommended that specially-assessed historic properties be allowed to also qualify for non-profit and public body exemptions, current-use exemptions, and farm and forest deferrals.

12. **Retroactivity** - The issue concerned whether to bring current participants in the program under the proposed rules for new legislation that would take effect January 1, 1994. The Task Force finding was that changing the program for those currently participating in it would be unfair. Excepting the elimination of the public visitation

requirement, the recommendations for legislation included in the report should not apply retroactively to historic properties certified for special assessment prior to January 1, 1994.

13. **Oregon outreach** - The issue was how to bring the benefits of the program to rural communities that lack the staff and expertise for full participation. The Task Force found that many of the historic resources identified through the Goal 5 process are located in areas with insufficient resources to provide adequate protection. These resources are part of Oregon's economic development strategy for tourism. The recommendation includes two provisions: (1) a position in the preservation office should be funded by lottery money, dedicated to economic development through preservation and, (2) the SACHP should be encouraged to provide outreach and technical assistance.

A minority report written by the legal representative member discussed six alternative recommendations. This material has been included in the final report to the Legislature and is summarized below:

1. **Concept:** provide legal standing to taxpayers and taxing districts. **Recommendation:** amend ORS 358.490 and 358.495(3) to make lost revenue a valid reason to deny an historic property tax exemption; provide taxing districts and groups of ten or more taxpayers standing to petition and appeal.

2. Concept: taxing districts should be able to limit participation in th exemption program. Recommendation: separate the exemption from National Register criteria. Limit participation to those properties approved by a majority of the levying tax districts within the location of the property.

3. Concept: the Legislature needs to re-evaluate historic property tax adjustments made after Measure 5. Recommendation: The Legislature should amend ORS 310.165 to require the assessor to determine the maximum amount of taxes on property to be imposed by using the greater, not lessor, of the real market value or partially exempt value.

4. Concept: the fifteen year exemption period is not justified historically. Recommendation: Amend ORS 358.483 to clarify that the length of benefit will be assigned based on merit to each property individually.

5. Concept: indexing. Recommendation: the non-exempt portion of an historic property's specially-assessed value should be indexed just as the non-exempt portion of most private property is indexed, to reduce the size of the subsidy.

6. Concept: actual cost of the program needs to be determined. Recommendation: all data in the Task Force report should be read and checked for accuracy by the Legislative Revenue Office. If radical changes are not made in the program it should be allowed to sunset and not be reinstited until there is an inventory of significant properties worthy of public support.3

NOTES

1. Talbot, David. Letter from SHPO to members, Task Force on the Special Assessment of Historic Properties, Salem, Oregon, 8-22-91.

2. Report of the Task Force on the Special Assessment of Historic Property, (Public Review Draft), Salem, Oregon, 5-15-92, p. 16.

3. Report of A Minority of the Task Force on the Special Assessment of Properties of Oregon Historical Significance, Portland, Oregon, 8-21-92.

## CHAPTER II.

### THE SPECIAL ASSESSMENT PROGRAM

#### Purpose of the Study

##### Analysis of TFSAHP Process and Special Assessment Program:

There is no previously existing body of knowledge on the history and effectiveness of the special assessment program beyond SHPO statistical data and an opinion questionnaire sent to tax assessors, downtown development associations, landmarks commissions and planners in each county with properties participating in the program.

The dual purpose of this project is:

(1) to perform an independent evaluation of the process used by the Task Force in its examination of financial data, public testimony and components of the current legislation used to arrive at conclusions and recommendations; and

(2) to examine issues and their implications resulting from the Task Force investigation of the current program that could affect future historic preservation incentives in Oregon.

## Importance of the Study

### Regulation of Historic Property:

Regulation of historically significant property by its nature requires encouragement or incentive to property owners. The mandate of Oregon's land use planning statute, through Goal 5, requires that a statewide inventory of historic or cultural resources be created; and that these resources must be protected. Goal 5 protection does not lead to National Register listing or the special assessment program. A perceived, and sometimes real, economic burden on historic property owners because of these requirements can be partially alleviated through participation in the special assessment program.

### Property Types with Total Values Participating in the Program:

Of the 20,000 historic resources identified thus far in the state, 2,779 are considered eligible for listing in the National Register of Historic Places. Listing in the Register is a requirement for eligibility to participate in the program, however, some of the participating properties are eligible because they are located within historic districts that are listed, even though the properties themselves are not individually listed.

Currently, there are 1,325 properties under special assessment, with a total approximate property value of \$196,085,469:

<u>Type</u>	<u>Number</u>	<u>\$ Value</u>
Residential	860	77,654,033
Multi-Family	78	16,378,850
Commercial	361	97,369,576
Industrial	15	4,133,060
Farm	11	549,950

Source: SHPO 1992

Impact of Ballot Measure 5, HB 2550 and ORS 353.305:

Ballot Measure 5, approved in November 1990, is a tax initiative that changed the state's constitutional property taxation regulations. The purpose of the initiative was to lower property taxes by reducing the millage rate over five years (tax rate per \$1,000) from \$30/\$1,000 to \$15/\$1,000, with \$10/1,000 of property value for local government and \$5/\$1,000 for school support. This permanent reduction in the ability of municipalities and school districts to levy an increase in tax rates has put a ceiling, or cap, on the revenue which can be raised through property taxation.

Until Measure 5, communities with properties participating in the special assessment program had not suffered losses of revenue due to frozen tax assessments on

their historic properties. Any losses that occurred were shifted to the rest of the properties in each taxing jurisdiction by increasing the millage rates. Spreading the losses throughout the jurisdiction allowed a very low tax increase to each owner, often just cents per \$1,000 of property value. Since the passage of Measure 5, this shift became a loss of revenue since increased tax rates are no longer possible, and many local governments are already feeling the financial pinch from each unavailable property tax dollar.

In 1991, financial terminology in the special assessment statute changed in response to language conformance provisions of House Bill 2550, which interprets Measure 5:

A. All references to "true cash value" were replaced with "real market value," except:

B. The beginning frozen value of a participating property was changed from "true cash value" to "assessed value;"

C. The effective date of entrance to the program was changed from January 1 to July 1 to coincide with the new property tax year; and

D. Lowering of the millage rates meant that properties with assessments frozen at the old, higher rates would not be able to benefit from property tax relief unless they withdrew from the special assessment program. Many property owners could not afford to withdraw because of the required repayment of tax savings accumulated over the freeze

period. In addition, the lowered rates could also act as a strong disincentive to owners to utilize the program in the future. House Bill 2550 mitigates these problems by allowing participants in the program to receive the benefits of Measure 5 limits and an assessment freeze, depending on which formula produces the lowest tax assessment for the property owner.

Criticisms of the Program:

The pending sunset of the current legislation on January 1, 1994, plus additional factors which include the impact of Measure 5, provided a timely interest to examine the program and offer alternative strategies to balance criticisms. These criticisms began during 1990, and have been heard periodically up to the present time. Public testimony revealed the following:

-- A perception of abuses by some property owners in the Portland metropolitan area, influenced by unfavorable media stories, which has resulted in conflicting opinions on the program's value and public benefits;

-- An impression that the program has been dominated by residential property owners trying to hedge inflation and get out from under their property tax burdens;

-- Some of the properties in the program are perceived as being of marginal historic integrity;

-- There has been a lack of significant maintenance or rehabilitation work resulting from participation in the program. There is no requirement for rehabilitation tied to

the current program, although some work may be required prior to application approval;

-- A lack of administrative oversight has allowed some properties to remain in the program while violating the rules regarding maintenance and annual open-house provisions. It is the intent of the statute to provide a "public benefit," which is currently fulfilled by the public visitation requirement;

-- Property values are rising in urban centers because of the change in valuation from "true cash value" to "real market value" set out by House Bill 2550. This has enabled assessors to upwardly reassess values, offsetting some of the tax loss due to the millage rate limits;

-- A disparity exists between rural and metropolitan areas with different valuations, rates, and numbers of properties participating in the program; and

-- High reappraisal of properties coming off the program can have a negative fiscal impact on owners, especially for commercial properties which are suddenly presented with large tax bills when their incomes may be derived from tenants under long-term leases.1

Future Use of Study for Preservation Policy  
in Oregon:

This study of the workings of the Task Force process and its outcomes is intended to facilitate further research into policy processes that will benefit preservation directives in Oregon. The State Historic Preservation Office will utilize

the recommendations of the Task Force, the financial analysis, data base survey and this study as part of the knowledge base necessary to design future incentive programs for historic preservation.

The Department of the Interior, through the National Park Service and the National Trust for Historic Preservation, monitor and report on preservation incentive programs throughout the country. The National Trust recognized the lack of current documentation on this subject when it awarded the Oregon SHPO a grant from it's Critical Issues Fund to develop a fiscal analysis of the current program, which will be distributed to other states working with similar economic incentive programs. In addition, a Special Assessment Study Data Base Report, conducted by Market Trends, Incorporated, has been produced. The findings of both reports are included in this study.

#### NOTES

1. Portland Public Hearing, 10-22-91.

**CHAPTER III.**  
**STUDY METHODOLOGY**

**Data Collection Methods**

**Study Design:**

The study design is based on both a program review and an analysis of the Task Force process, with contributing information provided by oral and written public testimony. The financial impacts of the program prior to the passage of Measure 5 and subsequently, have been examined for their effect on Task Force recommendations. The progress of the Task Force, from collection of information and analysis to findings and recommendations, was documented by attendance at the public meetings and work sessions.

This experience has been supplemented with the minutes and correspondence pertaining to each issue from the cumulative proceedings, legislative and economic background information, the economic analysis submitted by the GFRC consultant, the survey data base report commissioned by the preservation office and media response to the program and the Task Force. Additional contributing information that affected the process, such as the Oregon Administrative Rule changes

(OAR) and the Department of Revenue Rule change, was also evaluated.

In writing this study, I found it difficult to separate the issues surrounding the program from the process selected for the Task Force investigation. To review the background of the special assessment program and clarify the information that directly impacted the final recommendations, I arranged the material in seven chapters: introduction, purpose and importance of the study, study methodology, fiscal analysis and data base report, contributing information, evaluation of the process, and implications and commentary.

The chapter on contributing information includes the OAR changes, Department of Revenue Rule change and the public testimony. This chapter immediately precedes the evaluation of the process to enable the reader to link this data to the process issues. I considered it important for this information to be physically separated from the process evaluation itself to avoid confusion and to allow the reader an easy reference back to the OAR changes and testimony.

The evaluation of the process discusses those issues and recommendations that I believed to have the most influence and interaction with the process. It does not include all the findings and recommendations made by the Task Force; these are summarized in the introductory chapter. The fiscal analysis and data base chapter is a summarization that includes the highlights of findings I considered important to the Task Force process.

### Task Force Methodology:

At their first meeting the Task Force agreed to use a modified, consensus decision-making model, which would utilize a vote count if consensus could not be achieved on an issue, and could result in a minority report to the Governor and Legislature. Modified Roberts Rules of Order, with a quorum of six out of ten members present was required to vote on a motion. The facilitated statute review used nominal group technique as the model.

The responsibilities assigned to the Task Force included the following:

1. Review and comment on the statute;
2. Review and comment on materials provided by staff, Task Force members and other sources;
3. Assist staff in generating and gathering public input;
4. Offer guidance to staff on areas important to decision-making process; and
5. Review and comment on draft reports.

The State Historic Preservation Office provided technical assistance to the Task Force and was responsible for supporting the efforts of the GFRC consultant, in addition to preparing the draft and final reports of findings and recommendations for the Governor and the 1993 Legislature. Staff responsibilities were defined as follows:

1. Collect and analyze data;
2. Provide logistical and administrative support;

3. Facilitate communication among task force members; and

4. Provide technical and interpretive information to Task Force.

A work plan was developed which organized specific tasks into three categories - statutory, public and fiscal:

A. Provisions of the current statute were to be reviewed and eligibility criteria and other standards were to be closely examined. Oral and written public testimony from the various regions in the state concerning the program would be solicited and evaluated;

B. The current and future fiscal impact of the program on property owners and local governments was to be analyzed by GFRC during the Task Force investigations. When completed, the GFRC report would be evaluated against the Task Force findings, additional studies were to be performed and adjustments made to the recommendations contained in the final report.

C. A review of preservation incentive programs currently used in other states was conducted. The Task Force would use this material to develop alternative strategies to advance Oregon's preservation goals; and

D. The public review draft copy of the Task Force findings and recommendations was to be distributed for public comment in preparation for production of the final report to the Governor and the 1993 Legislature.

**FIG. 3 - TIME LINE OF TASK FORCE ACTIVITIES**

<b>Date:</b>	<b>Location:</b>	<b>Content of Meeting:</b>
Sept. 1991	Salem	Organizational: goals, decision-making process, conflict of interest
Oct. 1991	Portland	Impacts of Measure 5, public benefit, public testimony,
Nov. 1991	Albany	Public benefit, OAR changes, eligibility, public testimony, Statement of Public Benefit, Statement of Eligibility,
Jan. 1992	Roseburg	Revenue Rule changes, OAR changes, public testimony, 1st facilitated work session: = re-orientation to task, = issues v. statute, = commitment to structured analysis of current statute, = identification of issues
Feb. 1992	Salem	2nd facilitated work session: = current statute provisions, = prioritization/discussion of technical issues
Mar. 1992	Portland	3rd facilitated work session: = clarifying standards/req., = subsidies & incentives, = visitation, administration, = philosophical issues
Apr. 1992	Portland	Draft report findings, benefit value cap, rural outreach, development strategies
May 1992	Salem	Corrected draft report, benefit value cap, minority report, GFRC consultant
July 1992	Salem	GFRC fiscal analysis
Aug. 10, 1992	Salem	Additions to GFRC analysis, subsequent studies, public comment, final report findings
Aug. 17, 1992	Salem	Final report changes, task force sign-off on report

## Review of Literature

### Group Process Models:

The consensus model, also referred to as "interacting group," is one of a number of methods used for group decision-making. Others reviewed in this study include: nominal group technique (NGT), delphi technique, dialectical inquiry and devil's advocacy.

**Consensus** - The "consensus" model of decision-making has been defined as a method for people to arrive at agreement on an issue. The consensus decision represents a composite of the ideas generated by the members of the group that is "acceptable" to all of the members because it is logical and feasible. To be effective, every member of the group should offer input so that all knowledge about the problem can be communicated, and every member must support the group decision. One member can stop the process with a nay vote, because of the required unanimity of the group.<sup>1</sup>

Advantages to the consensus model are:

-- cooperative team effort to reach acceptable decisions, with each member contributing to the process, which produces greater acceptance of decisions by the group;

-- a higher quality of decision-making that results from open exchange among members, so that all points of view are aired and considered, enabling the group to recognize all aspects of an issue;

-- avoids a "win-lose" situation, created when the majority vote overpowers a dissenting minority;

-- can be used effectively to plan and allocate resources to implement the decision.

Disadvantages of the consensus model include:

-- amount of additional time it takes the group, depending on size and issue, to communicate and reach consensus;

-- cohesiveness of group may not be secure enough to produce contributions from all members;

-- requires a style of leadership that is more facilitative than autocratic.<sup>2</sup>

Consensus decision-making is used by business schools, professional and volunteer organizations. While lower in conflict than some of the alternatives, such as dialectical inquiry and devil's advocacy, which are considered formal structured intergroup conflict techniques, consensus produces higher quality decisions than majority vote groups, and is not as structured as nominal group technique or delphi technique.<sup>3</sup> Because consensus is less combative than other models, studies show that group members are willing to continue working in sustained groups on additional tasks.

The process is dependent on a trusting environment that facilitates open communication. This enables all the information held by the group about an issue to be revealed to all the members. Differences of opinion are desirable as long as logic forms the basis for recommendations. Conflict

reducing techniques such as bargaining, averages or coin tossing should be avoided.<sup>4</sup> The size of the group can make a difference in how well the consensus model performs, with studies indicating that five to seven members produces optimal participation. As the size of the group increases, participation tends to diminish.<sup>5</sup> There is some evidence that differences of opinion are more acceptable within an established consensus group than a new group, where cohesion is temporary and personal insecurity may be high.<sup>6</sup> Alternatively, too much cohesion can produce the phenomenon of "groupthink," where informed decision-making becomes less important than retaining group harmony.<sup>7</sup>

Whether the group is established or not, a significant improvement in the quality of decisions has been credited to members having previous training in techniques of group effectiveness. Testing has revealed that instructed groups created qualitatively better solutions than their uninstructed counterparts by using conflicts to develop original solutions to problems. Uninstructed groups responded to conflicts by creating compromises that would subdue the group tensions.<sup>8</sup>

Other comments critical of consensus mention the following:

-- energy is directed toward maintaining compatible relationships among members, rather than being used for task-oriented functions;

-- generalizations expressed more often because there is no opportunity for each member to develop ideas independently;

-- greater task avoidance through irrelevant discussions and socialization;

-- dominance by strong personality types;

-- group norms emphasize conforming behaviors; and

-- lack of member satisfaction with group accomplishments.<sup>9</sup>

**Nominal Group Technique** - NGT is a structured way of soliciting ideas from a group of people. Members meet and interact with each other, however, each participant writes down his or her ideas about the issue separately. The leader, or recorder, asks for one idea from each person in the group. The ideas are briefly stated on a board or flip chart. The process continues without discussion until all the ideas have been publicly recorded. At this point, each idea is discussed by the group. After discussion, each member privately rank orders the ideas. The rankings are collected and averaged to determine the final decision. NGT uses a controlled form of individual brainstorming. Criticisms are avoided until all ideas have been presented. The technique has several advantages over the consensus model:

-- passive people are encouraged to participate because they do not have to compete in presenting their ideas, and their ideas are not immediately dismissed by critics;

-- participation is spread equally among members, which helps to alleviate the problem of dominance by a minority of the group;

-- testing has shown that NGT produces more high quality ideas than the consensus model for the solution of problems; and

-- there is a higher level of participant satisfaction with NGT, compared to consensus and delphi techniques.<sup>10</sup>

NGT is considered to be most appropriate for judgmental and creative decision-making; not for what is referred to as "routine" meetings. Its primary virtues are the high level of creativity engendered, the balance of participation among members and the mathematical ranking techniques that summarize the group decision.<sup>11</sup> Additional benefits include greater consistency in decisions enacted because of less variability in group member and leader behavior, and the achievement of a balance between responsiveness to the social needs of the group and task accomplishment.<sup>12</sup>

**Delphi Technique** - The delphi technique is similar to NGT, except there is no group interaction. Group members are separated, and resolve the issue by responding to a series of questionnaires that generate information and ideas concerning the problem. This pooled information is shared by mail with each member.<sup>13</sup> The delphi process has been found to be more effective for idea generation and task resolution than the consensus model, however, the lack of interaction does not

make this technique preferable to NGT. Although delphi can produce the most technically correct information, generation of ideas and task solutions are considered nearly equivalent to NGT.<sup>14</sup> Delphi takes the least amount of participant time, but consumes the most administrative time in synthesizing the information, mailing questionnaires, tabulating results and controlling the process schedule. It is primarily used when it is not possible for group members to physically work together.<sup>15</sup>

**Dialectical Inquiry and Devil's Advocacy** - Dialectical inquiry and devil's advocacy are both utilized for strategic decision-making because they stress critical evaluation of ideas. Dialectical inquiry uses a debate format to argue the merits and faults of two opposing concepts which represent possible alternative policies, while devil's advocacy critiques the pros and cons of a single policy recommendation.

The conflict inherent in both techniques has suggested that higher quality decisions will result.<sup>16</sup> Studies show that critical evaluation is enhanced with both methods over the consensus model, however, there are unfortunate side effects to these models which include alienation of group members, lack of harmony, a disinclination of members to continue group participation and a reluctance of the group to accept decisions resulting from these processes.

The lack of group acceptance of the final recommendations has indicated that low conflict decisions are more likely to be implemented. In addition, researchers could

not identify why conflict reduced satisfaction and acceptance for group members.<sup>17</sup>

**General Group Behavior Characteristics** - Concurrent with the chosen decision-making model, a set of group characteristics exists that affects the ultimate success of the group goal.<sup>18</sup> These factors comprise:

(1) the background of the members and the total group experience, which results in a set of values that affect decision-making;

(2) participation patterns within the group, as related to the status and quality of contributions of members;

(3) verbal and non-verbal communication of members between each other and the leader;

(4) cohesiveness of the group, as shown by mutual respect and commitment to the goal;

(5) supportive atmosphere which alleviates defensiveness of members;

(6) subgroups, or cliques, that have developed within the group - may be beneficial or detrimental to the group goal;

(7) standards or guidelines for individual participation by members;

(8) procedural framework of the group;

(9) group understanding of goals; and

(10) leadership style.

Along with the influence of these characteristics, groups can encounter the following problems:

- (1) an identity crisis among individual members, countered by selecting members with skills for the task;
- (2) anxiety about the power and influence of the leader;
- (3) lack of shared goals and needs, aggravated by hidden agendas; and
- (4) insecurities of members in voicing opinions or sharing knowledge.

To overcome some of these problems it has been suggested that group communication should be a balance between content and feeling.<sup>19</sup>

**General Leadership Characteristics** - Another important aspect of group decision-making is the role played by the leader. The leader is responsible for both the social aspects of group-maintenance and task accomplishment, and must achieve a balance between them. Both aspects are mutually dependent, for without a congenial environment the group will not progress towards its goal.<sup>20</sup>

Three leadership styles have been defined: authoritarian, democratic and laissez-faire. Studies of leadership behavior have revealed the following information:

-- A democratic leadership style results in greater group productivity than a laissez-faire style;

-- Autocratic leadership produced the highest productivity over a short time span, however, as the group process lengthened, democratic leadership became more productive;

-- If autocratic leaders were not present at group meetings the groups could not continue to function; the democratic-led groups avoided this problem;

-- Members of democratic groups expressed greater satisfaction with leadership than those of laissez-faire groups. The majority of group members also preferred democratic leadership to autocratic;

-- Member commitment was highest under democratic leadership; and

-- Autocratic leadership produced either of two effects within group members, the highest levels of hostility and aggressiveness or the greatest apathy - members would not "fight back."<sup>21</sup>

Styles of leadership have also been portrayed by a continuum, with laissez-faire at one end representing "individual-centered" leadership, and autocratic at the other end depicting "leader-centered" leadership. The center of the continuum denotes "group-centered" leadership, known as democratic or equalitarian. For leadership to be successful, it is suggested that it must vary along the continuum depending on the group situation. The group-centered leader is described as a facilitator who delegates the group responsibilities to the members, providing a supportive environment in which the group can achieve. In contrast, the leader-centered leader accepts the main responsibility for controlling the group's activities, in order to achieve the leader's goals and objectives. The implications in this

definition are that group-centered leadership has a higher regard for the group members and trusts their abilities to arrive at a decision, while leader-centered leadership manipulates the members, extracting information from the group, but not allowing it to control decision-making. Other differences in style reveal that democratic leaders ask more questions of the group and make less direct contribution than autocratic leaders, who answer more questions and control group behavior.<sup>22</sup>

The successful leader was also seen as a separate entity from the group members, serving a different function. This leader retreats from direct participation while orchestrating the process, supplying information but not a solution to the problem. The reason for this distance is that the leader's contributions carry more weight with the group and can unduly influence the group outcome.<sup>23</sup>

#### Incentives for Historic Preservation in Other States:

**The GFRC Analysis:** Section 6 of the GFRC fiscal analysis identified twenty-five states that currently have legislation providing special tax incentives for historic properties. The information was organized by states around the following variables:

- qualification and eligibility criteria;
- incentive mechanism;
- incentive type;
- incentive amount and duration;

- substantial rehabilitation requirement;
- public access requirement; and
- local option enactment.

In Arizona and Montana, only properties on the National Register are eligible to participate. Rhode Island and New Mexico limit participation to properties on their state registers. In Georgia, Illinois and Wisconsin property must be listed on either the state or the National Register. The balance of the states have extended eligibility, depending on whether properties meet other criteria such as the Secretary of the Interior's Standards for Rehabilitation, local landmark designation, location in an enterprise zone or pass an age barrier of 25 to 50 years old.

Twenty states use preservation incentives in the form of property tax relief, while five states have chosen income tax deductions or credits as preservation incentives. In these five states, benefits are usually claimed within the first two years of participation.

The states offering a property tax incentive have programs lasting between five and twenty years, with eight to ten years as the most frequent program duration. The report notes that Georgia, Illinois, Iowa and South Carolina provide for either a phase-in or a phase-out period. The majority of states have some rehabilitation requirement, and the amount of the benefit is tied to the owner's investment in the property. Georgia and South Carolina require 50% of the appraised value of residential property and 100% of the appraised value of

commercial property to be invested in rehabilitation. Seven states require at least a 25% investment and another seven states have minimal requirements for rehabilitation investment. Oregon and Rhode Island are the only states without a rehabilitation requirement to receive the benefit.

While some states have split the incentive for residential and commercial properties, Alabama, which restricts its program to commercial properties, offers low-interest loans to finance rehabilitation of participating properties. These properties are given an exemption from the added value of their rehabilitations for twenty years. In addition, the costs of the rehabilitation are exempt from sales taxes.

The majority of property tax incentives are abatements of some portion of the original value, the value of the rehabilitation, or both. Oregon, Louisiana and Montana are the only states that offer the benefit as a freeze on the property assessment.

The report noted that Washington, California and the District of Columbia classify qualified historic properties for assessment purposes based upon their "current use," rather than their "highest and best use." The "current use" classification is used in Oregon to keep agricultural lands from the pressures of economic development.

Public access to historic properties is currently mandated in only one state: Oregon. Of the other three states that formerly included this requirement, Washington still

requires accessibility if the property is not visible from a public right-of-way.

According to the report, local options to enact preservation incentive programs are being practiced in three states - Washington, Texas and Florida. This means that local communities can choose to enact preservation incentives under legislation authorized by the state.<sup>24</sup>

**State by State Summary of Financial Incentives for Historic Preservation:** This 1991 report from the National Trust for Historic Preservation gives an overview of all preservation incentive programs currently offered across the country. Information for the listing was obtained primarily from State Tax Incentives for Historic Preservation, by Margaret Davis Coleman, and interviews with state historic preservation officers. The report reveals there are fourteen states that do not offer any preservation incentive programs. The only incentive in some states is direction to assessment officials to note reductions in property values caused by historic easements. Some states have incentives with special provisions attached: in Hawaii, the owner of a historic residence may dedicate a portion of the property for preservation. This is followed by petitioning the county director of finance for a property tax exemption. If approved, the owner must agree not to change the use of the property for at least ten years. If the rule is violated the exemption is cancelled, and if the property is sold the new owners must continue to follow the property restrictions.

Missouri's program authorizes tax abatements for owners who rehabilitate property in blighted areas, after approval of plans. This program applies to both historic and non-historic properties. Several states have tried to pass legislation authorizing historic preservation incentive programs, but have had their efforts declared unconstitutional.<sup>25</sup>

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95% Cotton

## CHAPTER IV.

### TAX ASSESSMENT FISCAL ANALYSIS AND INVESTMENT DATA BASE REPORT

#### Background to Analysis and Report

At the end of May 1991, the State Historic Preservation Office submitted a grant application to the Critical Issues Fund of the National Trust for Historic Preservation in Washington, D.C. The proposal was to review the Oregon special assessment program as an economic assistance program for owners of historic property, and to make recommendations to improve state rehabilitation incentives. The Fund was asked to provide one-half of the financial support for the project. In mid-January 1992, a Request For Proposals (RFP) detailing the history of the program and the scope of work was submitted to qualified consultants. The consultant selected was to provide the following information:

1. Assessment of general statewide economic impact on all property in the program compared to impacts if no program existed, and a separate evaluation by property type: residential, commercial, multi-family, industrial and farm;
2. Comparative economic analysis between the metropolitan tri-county area of Multnomah, Washington and

Clackamas Counties, and the rural tri-county area of Douglas, Lane, and Linn County;

3. Comparative economic analysis between two sets of similar property types where one property is rehabilitated and under special assessment and one is not. This evaluation would be performed on a set of residential and commercial properties; and

4. Comparative assessment of Oregon's tax assessment program with at least four historic preservation economic incentive programs in other states.<sup>1</sup>

The intent of the report was to produce an independent tax analysis that would stand on its own merits; it was not written to support the work of the Task Force, but to be a companion piece to the Task Force findings and recommendations. The conservative element of the Task Force desired to postpone presentation of the analysis until policy decisions about the program had been reached. They felt the analysis would be prejudicial on behalf of preservation due to the fact that it was partially funded by a grant from the National Trust.

Two responses to the RFP were received and reviewed by a three-member panel, with the Government Finance Research Center (GFRC) selected as the consultant in February. At that time, the Task Force had been meeting since September of the previous year without a financial analysis of the program's impact. At the Task Force meeting in May, the GFRC consultant presented his preliminary findings and provided commentary on

financial options to limit program participation that were under discussion. The first draft of the consultant's analysis was presented at the July meeting.

Incomplete or unavailable information, conflicting state and county data in most of Oregon's counties and lack of sufficient funds constrained the consultant's efforts to provide a retrospective to past performance of the program using historical data. However, GFRC was able to show the tax shift amounts and relative county percentages that occurred before Measure 5 in each county containing program properties. A comparison of residential properties in Multnomah County was performed, and the cost of commercial rental space in downtown Portland was utilized as a substitute for valuation data, to determine fiscal impact to historic business properties. In addition, appreciation rates for participating properties in Lane and Multnomah Counties were estimated using a hypothetical model. An addendum to the report in August was able to quantify public benefits received in Multnomah County from commercial investment in rehabilitation.

To enhance GFRC's report, the preservation office announced that Market Trends, Incorporated, a Portland market research firm, would conduct a survey of sample property owners under special assessment in Multnomah, Lane and Linn Counties. The goal here was to determine the program's performance value, based on owner maintenance and/or rehabilitation to property made before and after entering the

program, separated into residential and commercial properties.2

The preservation office subsequently decided that the tax assessment fiscal analysis and investment data base report findings would be blended and included in the final Task Force report.

### Fiscal Analysis and Data Base Report Findings

#### **Tax Assessment Fiscal Analysis - Government Finance**

Research Center developed its analysis in six sections:

- (1) Statewide utilization characteristics;
- (2) Effect of special assessment on local property taxes, pre-Measure 5;
- (3) Public sector benefits and costs;
- (4) Effect of special assessment on owners of historic property;
- (5) Effects of Measure 5; and
- (6) Other state preservation programs.

[discussed in Review of Literature, Chapter 3].

**Section 1:** The demographics of the assessment program were presented for the year 1991. They revealed that properties under special assessment numbered over 1% in thirteen of Oregon's 36 counties; this was significant, considering the rural environment of most counties. The properties with the highest values were clustered in eight of the thirteen counties; in urban locations with higher property values. Statewide, 62.6% of participating properties were

single residential, while 29.4% were commercial (6.1% were multi-family residential and 1.8% were classified as farm/industrial). In terms of valuation, residential properties comprised 34.8% of the total frozen assessments, with commercial properties representing 55.3% of the total. Most of the frozen valuation, 68.1%, occurred in Multnomah County where property values were highest, however, only 36.6% of the participating properties were physically located in Multnomah County. The remaining properties were distributed across the other counties as follows: Jackson (11.8%), Linn (10.3%), Lane (5.5%), Clackamas (4.9%), Douglas (3.9%), Polk (2.4%), Yamhill (2.2%), Baker (2.1%), Benton, Clatsop and Umatilla (1.6%), Wasco (1.3%), Josephine (1.2%), Hood and Washington Counties (1.1%).<sup>3</sup>

This information enabled the Task Force to understand the numerical impact of the program on Portland and Multnomah County, in comparison to its dispersion throughout the rest of Oregon's counties.

**Section 2:** During 1991, the total frozen value in the twenty-six counties was \$170 million. Twenty-two counties (out of twenty-six responding to GFRC) were able to report both frozen and current market values of assessment properties:

- (1) total frozen value was \$166.6 million;
- (2) total market (true cash) value was \$334.3 million; and
- (3) the difference between these figures left a

total exempt value of \$167.7 million.

The "maximum case tax shift" is defined as the amount of property taxes shifted to other properties without consideration of any offsetting economic benefits from the tax freeze program. This shift totaled \$5.2 million in 1991, and is the sum of the "average total county mill levy" for each of the twenty-two counties. The average mill levy for a county is the combined average tax rate for all taxing jurisdictions within the county. The most significant fact about the tax shift is that \$4.4 million, or 84%, occurred in Multnomah County, which has the highest property values in the state. Jackson County had the second highest percentage of the total shift at 5.5%, with the remainder divided up among the other counties.

Additional calculations determined the maximum case levy shift as a percentage of total property taxes in each county: Multnomah (0.67%), Hood River (0.37%), Jackson (0.28%), Clatsop (0.15%) and Benton (0.14%). In the remaining counties the levy shift was less than 0.10%. When translated to an individual taxpayer, at \$100,000 of taxable assessed value, the shift worked out to be \$21.60 per \$100,000 per year in Multnomah County. In Hood River the shift was \$7.70, with Jackson at \$5.90, Benton at \$4.50, Clatsop at \$3.00, Marion at \$2.20, Linn at \$1.80 and Union at \$1.50. Deschutes, Josephine and Polk each had \$1.10. Other counties showed a shift of less than \$1.00 per \$100,000 of assessed valuation.

Comparable data from previous years was only available in Multnomah County. In 1984, Multnomah recorded a total taxable value of \$17.2 billion. The exempt portion of this credited to special assessment was \$29.0 million, or 0.17% of the total taxable value. This produced a maximum case shift of \$4.00 per \$100,000 to other taxable properties. The reasons given for this dramatic increase in the shift were that:

- the later years of the program (1986-1991) saw relatively greater increases in the cumulative amount of exempt value due to a rise in appreciation rates and in the number of properties entering the program; and

- many Multnomah properties had substantial rehabilitation, which increased their market and exempt value.

Local tax revenues were basically not effected by the tax freeze prior to Measure 5 because municipalities were able to shift the amount of taxes that would have been paid on the exempt properties to other property taxpayers within the taxing jurisdiction. This section does not address the issue of whether the shift was good public policy, nor does it conclude that the shift was small in terms of its impact.<sup>4</sup>

**Section 3:** GFRC developed a case for the benefits of preservation that come in addition to saving buildings and neighborhoods through the following rationale:

- Investment in rehabilitation produces a "multiplier effect" in the economy through construction

spending and increased employment; this expansion increases business in related fields and overall tax revenues;

-- Preservation is often a vital part of community redevelopment strategy to promote tourism and revitalize inner-city areas; and

-- It is more cost-effective for communities to utilize the existing infrastructure through encouraging rehabilitation than to invest in the costs of new development.

Multnomah County was used to compare the average single residential sale price between 1985 and 1991 with the same category average sale price of special assessment properties. According to the study, average single residential sales prices increased 38.76%, from \$54,478 to \$75,584, while average sale prices of program properties increased 78.84%, from \$203,083 to \$363,188, during the same period. This increase was attributed to the following factors:

-- Most of the program properties were part of larger historic districts. Historic designation is thought to increase property values.

-- Some of the program properties changed ownership during these years and were rehabilitated, which also increased their values.

-- Lower property taxes helped fuel the demand for the program properties, and contributed to higher values.

Properties from the 1986-1991 period will not return to the tax rolls until 2001-2006. Combining residential and

commercial, pre-Measure 5, tax gains would have exceeded the shift by \$1.7 million annually. GFRC concluded that over a thirty-year period, post-Measure 5, a modest net gain in state and local revenues would result from the program, and any losses from residential properties would be more than offset by gains from commercial properties.

The consultant then analyzed property rents for the Portland central business district (CBD) as an indicator of the value of commercial properties. This measurement was used due to difficulty in obtaining valuation data. Commercial properties are grouped in the following classifications:

Class A: New, high-quality rental space

Class B: Used rental space

Class H: Historic/rehabilitated rental space

From 1986 through 1991, Class A rents for new facilities declined 12.92%, from \$19.20 to \$16.72 per square foot. Class H rents for rehabilitated historic properties decreased 11.53%, from \$11.97 to \$10.59 per square foot. These fluctuations were seen to be the result of competitive market conditions caused by an oversupply of both A and H properties during this period. The decline in Class A rents has had a detrimental effect on Class H properties, forcing rents even lower and enabling some businesses that would have started in rehabilitated historic structures to locate in new quarters at bargain rents. Class A properties come with parking spaces and other conveniences that are missing from historic buildings.

GFRC contended that competitive market conditions, not the assessment program, had driven the utilization of commercial historic buildings in Portland. The first draft of the report informed the Task Force that there was no commercial economic benefit in Portland attributable to the assessment program. According to testimony received from the Association for Portland Progress (APP), however, the tax incentive had been responsible for the retention and viability of the Portland commercial core. It appeared that if the program initially benefited Portland commercial properties, GFRC believed this had not been the case for the past five or six years. The key issue, unanswered by GFRC, is what would have happened to these properties without the benefits of the program.

In August, GFRC developed an addendum to the report that was able to supply the Task Force with estimates of public benefits resulting from new investment in commercial and residential properties. Construction-related expenditures were tied directly to increased revenues for local and state governments through direct consumption, procurement effects, income multiplier effects and collection of fees on construction and rehabilitation activity in these estimates. Although some of these effects were one-time boosts to the economy, long term benefits would be expected if net growth in businesses occurred as a result of the rehabilitations. This growth would result in a net increase in wages, personal and business taxes collected and property tax revenues when these

properties return to the tax rolls. The data for this analysis was assembled from two sources: (1) SHPO files on the federal incentive program known as the Investment Tax Credit (ITC), and (2) the data base survey report of program participants. GFRC found that of 139 income-producing projects approved by SHPO in Multnomah County, thirty-six (26%) had also utilized the ITC program. These properties, which used both incentives, were selected as the sample for the commercial investment estimates.

Comparing these properties to the rest of the projects, those who used only special assessment and not the ITC made considerably smaller investments than the projects that used combined incentives. GFRC attributed this difference to three factors: (1) the federal ITC program has been aimed at larger developments; (2) the combined benefits created enough incentive to attract additional capital; (3) the ITC program has historically been used by investors and businesses with higher taxable incomes.

The average major rehabilitation improvement for program properties not participating in the federal incentive program was \$401,500 per property in Multnomah County. These properties were estimated to have received rehabilitation valued at \$55.8 million. When added to \$139.1 million in rehabilitations for combined incentive properties, the total value of all major commercial rehabilitations in the county since 1978 was \$194.9 million. When compared to \$151.3 million in frozen values for all county properties on the

program, an excess added value of \$43.6 million will have been created in Multnomah County alone.

The report surmised that there have been many economic benefits to local government resulting from one-time construction effects and continuing net increases from growth in employment, business fees and taxes. Total rehabilitation-based wages were estimated at \$125.2 million over the entire program period. With an average annual construction salary estimate of \$27,500, rehabilitation provided an estimated 4,554 full-time construction-related jobs. Income taxes would have provided \$6.4 million, with yearly fee and permit income estimates at \$694,323.

The gross economic effects of the incentive were measured by using \$75.00 per square foot as a basis. Approximately 1.4 million square feet have been rehabilitated in Multnomah County since 1978. GFRC assumed that 85% of this space was for office and commercial use, with 15% allocated to retail. The number of employees per thousand square feet was estimated at 2.5 for office and 2.0 for retail, with an occupancy factor of 80%. The total employment in previously unoccupied (unrehabilitated) space was calculated to be 2,510 full-time positions, having taxable incomes of \$28,500 for office work and \$16,000 for retail. Total taxes from these incomes were computed to be \$54.8 million.<sup>5</sup>

**Section 4:** This portion of the report evaluated the economic performance of the program for owners of historic properties using four variables:

- (1) the rate of increase or decrease in market values;
- (2) the property tax rate;
- (3) the value and timing of additional improvements to the property; and
- (4) the timing of the special assessment application.

Significant findings for the Task Force included the following:

-- If a participating owner does not make a substantial rehabilitation investment the tax freeze has acted as a shelter for the owner against increases in the property tax rates.

-- In terms of an investment decision, the tax freeze increased the rates of return on investment to an equivalent or larger degree than other investment opportunities, assuming the same level of risk.

-- Regardless of whether the investor is an owner or not, property tax savings have been made through program participation.

The balance of this section considered the economic effects of the program in Multnomah and Lane Counties, with and without rehabilitation, pre-Measure 5. The example used in these equations was a hypothetical property with an initial market value of \$100,000 in 1978, when the property was approved for the program. Results from calculations showed that differences in the value of the benefit changed

substantially, depending on when a property entered the program, because of yearly increases in real appreciation and the assessment practices of the two counties. The value of special assessment in Lane County was less for both improved and unimproved examples than for similar situations in Multnomah County.<sup>6</sup>

**Section 5:** The report verified that Measure 5 has reduced the value of the program for participating owners by capping the millage rate. How much the value will be lowered depends on the location of the properties in each county, and how much that county's current tax rate exceeds the 1995 mandated maximum rate of \$15 per thousand. Most properties using the tax freeze are located in counties that have tax rates in excess of \$20.00, and as high as \$37.21 per thousand. Josephine, at \$17.00 per thousand, was cited as the only county with a rate of less than \$20.00 per thousand. This reduction in value to the owner is increased by rehabilitation because the cost of the investment is no longer offset by increased property tax savings. The report concludes that the program may experience a decline in both applications and investment, with Measure 5 acting as a disincentive to participation.

GFRC believed that the state might assume a greater responsibility for financing local governments dependent on property taxes. The state could offer intergovernmental transfers, raised through increased taxes, each county could

adopt a piggyback tax or local governments could revamp their tax bases.<sup>7</sup>

**Data Base Report** - This research was performed to provide three types of information to the Task Force:

(1) an estimate of the investment made by participating owners in normal property maintenance and major rehabilitation;

(2) a determination as to whether or not the current owners invested in the property prior to joining the program and, if affirmative, the amount of the investment; and

(3) a measurement of owner opinions about the value of the program in enabling them to make property improvements.

The survey methodology consisted of the following:

(A) A list of 589 participating properties with telephone numbers was used, with 290 telephone interviews completed with owners or managers of properties. A total of 1,142 calls were made to produce this sample. The interviews were conducted between July 28 and August 4.

(B) The sample size produced a reliability factor of +/-5.7%, for a confidence level of 95% of those properties selected. From the total sample, 181 interviews were conducted with residential owners, giving a reliability of +/-7.3% for this subgroup, while 109 interviews took place with commercial owners, resulting in a reliability factor of +/-9.4%.

(C) Five questions were asked in each interview:

1. How long have you owned this property?

2. Since receiving special assessment from the State of Oregon, approximately how much have you invested in ordinary maintenance and general upkeep of your property?
3. Since receiving special assessment from the State of Oregon, approximately how much have you invested in major improvements and/or rehabilitation to your property?
4. Did you invest in your property prior to receiving the special assessment?
  - 4A. Approximately how much did you invest?
5. How responsible was the special assessment program in enabling you to maintain and/or improve your property?

The report also included a breakdown of the frozen values of the surveyed properties by county, a tally of commercial properties that had also used federal investment tax credits, the amount of the investment tax credits and a summary sheet of all the investments in program properties by county. This information was used by GFRC in its analysis of the public benefits resulting from combined incentive projects.<sup>8</sup>

Of commercial property owners, 90% believed the program had been either partially, mostly or fully responsible for maintenance and improvement of their properties. For residential owners, 77% believed that the program had enabled them to improve their properties. For commercial properties, the investment tax credit information indicated that 84% of the 109 sampled properties did not participate in the federal program.

## Critique of Findings

**Tax Assessment Fiscal Analysis** - Regardless of the form of replacement revenues, the special assessment cost has changed from a shift of tax burden to other property owners to a loss, cutting back on other community services and programs. Actual costs are having the following effects on government:

- (1) The state has cut back services.
- (2) Many school districts have less money.
- (3) The state and local government must raise other revenue through new taxes or further cut spending.

The Task Force was faced with a difficult situation: according to the report, rates of appreciation on single family residences had risen dramatically for participants in Multnomah County, the area that has done the most complaining about program abuses. At the same time, the economic benefits to the commercial core, long believed to have come from the special assessment program, had not been adequately demonstrated through the use of square footage rents. It was essential for the Task Force to have some numerical understanding of the public benefits that could be balanced against both economic perceptions.

The Task Force needed to validate the special assessment program to the legislature, counties and local governments who must find a way to pay for it. The initial focus of GFRC's report on the appreciation of residential program properties,

the lack of appreciation on commercial properties in the highly-valued Portland metropolitan area and the loss in revenues to municipalities caused by frozen values, appeared to give substance to negative opinions expressed in the media.

Because the report was distributed to all interested parties soon after the draft findings and recommendations, some of the final adverse written testimony can be attributed to its impact. In a letter received by the Task Force from the Association for Portland Progress (APP) after the draft report and fiscal analysis had been distributed for comments, the association stated that the analysis was incomplete, having ignored the multiple benefits stemming from the preservation of historic buildings.<sup>9</sup> Another response to the analysis, from the City of Medford, cited the confirmation of municipal revenue losses being related to the program as the reason why the city would not support the incentive, in spite of the tightened program structure contained in the task force report.<sup>10</sup> GFRC's findings also conflicted with the final recommendations of the Task Force resulting in changes that could influence the continuation of the benefit.

In the initial analysis, the economic benefits of the program were shown to be mainly private, through a tax subsidy, while the future added value of the benefit was not determined. The August addendum corrected the perception that there was no commercial economic benefit attributable to the program by developing estimates of public benefits resulting from rehabilitation of income-producing properties in

Multnomah County. These estimates were derived from SHPO records of the projects that had used the federal Investment Tax Credit program in combination with the special assessment program, and the data base survey report produced by Market Trends, Inc. The public benefits resulting from construction-related expenditures provided one-time increases in local revenues. However, according to GFRC, long-term gains also were effected through net growth in employment, taxes, fees, utilization of once unoccupied rehabilitated floor space, direct consumption from wages and the projected increase in property tax assessments from improved properties when they returned to the tax rolls.

This revision of the initial report helped to offset the negative effect created by the analysis of Portland rents as an indicator of the value of commercial properties. The consultant was unable to obtain valuation information on these properties. In order to approximate value, average per-square-foot office rental rates were used as a substitute. Rates for 1986 to 1992 were made available from a local commercial leasing and management firm for the Portland central business district (CBD).

Specific problems with items in the analysis were:

**A. Section 4, average single residential sales price.**

This comparison was flawed for the following reasons:

- (1) The study did not compare units that were comparable. With the level of data available from Multnomah County a more credible research design could have been used;

such as regression analysis on samples controlled for size of house, number of rooms, rehabilitated or not rehabilitated, similar location and sales price.

(2) It is evident that Multnomah County is atypical of the rest of Oregon's counties in terms of property values and program costs, therefore, any results that would have come from a controlled analysis would not necessarily be applicable to the rest of the state.

**B. Section 3, appreciation of historic property.** It was not shown through the use of any sensitivities or controls that the appreciation in property values directly results from participation in the program, instead of the influence of other economic factors such as supply and demand. Although appreciation to the individual home is depicted as the principal benefit, it is estimated only through a rise in appreciation. A comprehensive study would have been controlled with a large sample, specific house sizes and comparable locations in Multnomah County to determine whether this sample of program properties is different from the others; this would have enabled a comparison of the significant differences between samples.

The analysis needed to present some quantification of public benefits resulting from residential participation, besides an escalation in residential sales, that could be used to justify the program for residential properties, as well as commercial. It is a very narrow view of public benefits from

residential properties to focus only on property appreciation for owners.

**C. Section 3, Portland commercial building rents.** The validity of this indicator is questionable when applied to the value of commercial historic properties. The addendum based on ITC data and the data base survey produced a more balanced picture of the estimated public benefits derived from income-producing rehabilitated properties, however, no comparison was presented as to what would have happened to the structures without the program. The estimates assume that properties will return to the tax rolls after a fifteen-year period, however, the Task Force recommendation is that properties be allowed to re-apply for the benefit during the fifteen year period as often as desired provided they pay back taxes and a penalty of 1%. It would have been instructive to review some scenarios that altered these estimates depending on various percentages of properties that might continue to utilize the program benefit over an extended time.

The report over-estimates the net benefits accruing to the "multiplier effect" cited by GFRC. In addition, there is no discussion or comparison about what would have happened if these buildings had not been rehabilitated through the tax incentives. Content of this report resulted from the proposal to GFRC for an analysis of benefits to owners of historic properties and the tax implications of the program both pre- and post-Measure 5.

Although it might not have been possible, I believe that using graduate students from either the University of Oregon or Portland State would have provided additional labor to research and extract data on public benefits. It also would have enabled the preservation office to develop a link with the analytical resources available through the university system.

**Data Base Report** - The overall survey response rate for 290 interview completions, with 589 attempts, was 49.2%. Of this percentage, 181 interviews (62.4%) were with residential owners and 109 interviews (37.6%) were with commercial owners.

The number of property owners contacted in each county were said to be proportionate to the number of properties located in that county. Although the state had weeded out nearly 17% of properties before compiling the sample list, Marketing Trends, Inc. was unable to contact over 50% of the owners on the list due to inaccurate data. This situation occurred because there is no legal mechanism in the current statute requiring that the SHPO be notified of a change of ownership of properties receiving the benefit.

The validity of the survey is questionable for the following reasons:

1. The reliability factor of +/- 5.7% assumes randomness in the sample. As this survey was not randomly conducted, it has provided only marginally useful data for generalizing the results to these three counties because the direction of the bias is unknown;

2. The response rate was probably not from a representative population of program participants because the owners surveyed remained in the properties, while those who could not be reached had moved;

3. Differences in the type of building within residential and commercial categories were not considered.

The GFRC analysis based its reworked estimates on 450 residential and 139 commercial properties in Multnomah County. This does not tally with the data base survey, and it was not revealed in the analysis where the information for the additional 269 residential and 30 commercial properties came from. In addition, the data base survey covered Multnomah, Lane and Linn Counties, however, GFRC related all findings to Multnomah County exclusively.

Finally, according to the fiscal analysis, if indexing were to become part of a new program statute, in addition to the impact of Measure 5, the primary benefit would come only to those who performed substantial maintenance and rehabilitation after admittance to the program.

#### NOTES

1. SHPO, Request For Proposals, 1-17-92.

2. Weber, Stephen T. Special Assessment Study Data Base Report, Market Trends, Inc., Portland, Oregon, 8-92.

3. Siegel, Michael L. Economic Impact and Fiscal Analysis of Oregon's Special Assessment of Historic

Properties, Government Finance Research Center, Washington, D.C., 7-92, p. 9-12.

4. Ibid., p. 13-17.

5. Ibid., p. 18-31.

6. Ibid., p. 32-38.

7. Ibid., p. 39-43.

8. Weber, Stephen T. Special Assessment Study Data Base Report, Market Trends, Inc., Portland, Oregon, 8-92, p. 1-30.

9. Kalberer, Philip. Letter from Business Development Chairman, Association for Portland Progress to Dr. William F. Willingham, Special Assessment Task Force, Salem, Oregon, 7-92, p. 2.

10. Eisenhard, James M. Letter from Planning Director, City of Medford, to James Hamrick, State Historic Preservation Office, Salem, Oregon, 7-92.

**CHAPTER V.**  
**CONTRIBUTING INFORMATION**

**Oregon Administrative Rule Changes**

Early in 1990, occasional articles began to appear in The Oregonian that were critical of special assessment.<sup>1</sup> Most of the information given within the text of these articles was balanced and favorable to the program, however, critics of the program were quick to call attention to the few abuses that appeared in the reports. They cited the incentive as a subsidy for structures that had either: (a) lost their historic integrity, (b) were owned by wealthy people who wanted to avoid paying their fair share of property taxes, (c) belonged to owners who did not abide by the rules of the program concerning public visitation, or (d) were unworthy of historic designation.<sup>2</sup> According to some reports, there also appeared to be a conflict of interest between the SACHP, who recommend National Register nominations (a pre-requisite for the program), and admittance to the special assessment program.

In opposition to the negative reporting that focused on Portland and Multnomah County - the areas with the largest

proportion and highest value of historic structures participating in the program - some articles supported the program as a community investment, noting the high costs and marginal profitability to developers who engaged in rehabilitation of commercial historic properties.<sup>3</sup>

In response to criticisms, and because the current legislation will sunset on January 1, 1994, a decision was made by the SHPO to amend the existing administrative rules governing the program. It was hoped that this would rectify critical problem areas.

During October 1991, copies of the proposed rule changes were widely circulated in anticipation of the public hearing, held in November. A synopsis of the proposed changes follows:

A. Alterations - language added requiring participating owners to seek prior SHPO review and approval of interior and exterior alterations or new construction affecting historic integrity of structures.

B. Public Visitation - requirement that SHPO be notified of open-house dates by participating owners each year; property must be open to the public without a prior appointment; commercial property must extend business hours for open-house and enable public to visit all historic areas of property; admission to open-house must be free of charge; SHPO to publicize open-house in advance of date; property owner must supply exterior sign to notify public.<sup>4</sup>

The State Advisory Committee on Historic Preservation was concerned about a number of problems arising from these proposed changes:<sup>5</sup>

- How to coordinate the rule changes with the work recently started by the Task Force, whose report would not be finished until the following summer;

- How to fulfill requirements for public visitation under the current program without including invasive and punitive changes in the rules;

- How to redefine "public benefit" to include a broader community scope than simply requiring annual open-house visits, which presented security hazards;

- How to avoid the negative impact on the program and legal challenges on private property and privacy issues that could occur with adoption of these changes; and

- How to enforce compliance to more stringent rules with constricted state resources.

The public hearing in November brought a storm of protest from property owners in the program.<sup>6</sup> The Chairman of the Parks and Recreation Commission noted that visitation had been required since the inception of the program, although that provision of the law had not been adequately enforced. Those who objected to the requirement should withdraw from the program or work to get the statute changed. Of the 135 people offering written or oral testimony at the hearing, only two testified in favor of the rule changes.

The National Trust for Historic Preservation testified that Oregon was the only state that currently had a provision for open-house visitation attached to its preservation incentive program.

Other testimony emphasized that problems had only occurred in one section of one county - Multnomah - and that elsewhere in the state the program was successful. Most of the objectors felt the changes would adversely affect:

(1) the security of occupants and property through use of publicity and signs;

(2) fees used for non-profit activities;

(3) owner flexibility to select dates and visitation options;

(4) the continued viability and integrity of the program;

(5) a general opinion that exterior viewing is sufficient public benefit;

(6) business properties, which are structured differently from residential properties; and

(7) replace objective standards with subjective evaluations.

Concurrently, the Task Force was conducting public hearings on the implications of Measure 5 and the public benefits received from the program. The timing of the rule changes to coincide with the Task Force investigation was a political decision. It was expected that a prompt response to complaints would highlight problems caused by the current

legislation that could be avoided by the Task Force in the crafting of an amended statute. However, the dual occurrence of these two distinct processes was confusing for those presenting testimony at Task Force meetings in Portland, Albany and Roseburg. The Task Force frequently had to remind the public that it was developing recommendations for future legislation, and could not accept testimony on the proposed rule changes to the current statute, although learning about problems connected to the current program could influence Task Force findings and subsequent recommendations.

Members of the Task Force also had a difficult time keeping the two processes separated in their discussions. At the Albany meeting, which occurred after the OAR hearing, it was pointed out that the Task Force was looking at the scope of the total program, while the OAR changes were much narrower in focus. However, the State Historic Preservation Office stated that the public wanted to have the Task Force involved with the hearings because they believed the rule changes might influence group decisions.<sup>7</sup>

At the January meeting in Roseburg, the majority of the members voted to send a letter to the State Historic Preservation Officer requesting a moratorium on the rules changes until its findings were completed.<sup>8</sup> In Salem the following month, the SHPO responded that he did not want remedial action on these controversial program issues to wait for the findings of the Task Force.<sup>9</sup> The changes to the

administrative rules were adopted by the SHPO on May 1, 1992.10

#### Department of Revenue Rule Change

In 1991, the Oregon Department of Revenue passed an administrative rule requiring that properties entering the special tax assessment program be physically reappraised before the value of the property was frozen, regardless of where the property was in its six-year appraisal cycle. The State Historic Preservation Office was not consulted about this ruling, and questioned its legality because it would require properties approved for special assessment to undergo a special, out-of-cycle reappraisal thirty days after acceptance to the program.

The ruling was repealed, effective December 31, 1991. The Department of Revenue concluded that Multnomah County would have to use the true cash value on the tax roll as of the date of appraisal, rather than the value set by physical reappraisal after application.<sup>11</sup> Previously, the county would use this new value as its base for the fifteen-year tax freeze rather than the value on the tax roll as of January 1 of the current year.

An increase in assessed value at the beginning of program participation, before any changes had been made to the property, was basically discriminatory and had the effect of nullifying any tax benefits the owner might have received from rehabilitation; this was in addition to the expected increase

in assessment that would be facing an owner coming off the program at the end of the fifteen-year period. July 1 is the appraisal date set for property designated as historic and approved for special assessment (Oregon Statute 358.505 (2).11

The Department of Revenue rule change was another administrative element that added to the complexity of issues revealed during public testimony, although the repeal of the 1991 rule was favorably received by all who were concerned with changes to the program.

### Public Testimony

#### Tally of Comments:

A count of the number and type of comments from the minutes of the hearings and the written testimony received by the task force has been organized into "composite opinions," which reveal the viewpoints of those who testified. This information is shown below.12:

<u>Composite Category</u>	<u>Number of Comments</u>
1. Program should be retained as is.	39 Oral - 11 Written
2. Program should be retained with rehab req.; indexing; enforce rules; rank properties; separate residential from commercial.	26 Oral - 13 Written
3. Use alternative incentives; phase out program.	12 Oral - 8 Written

Category 1 supports the view that the program has been highly effective over its duration and should be renewed without restrictive rule changes. Comments about the program concluded that it: protects historic properties through investment, effectively leverages frozen assessments and Community Development Block Grant (CDBG) funds for individual owners and municipalities, helps to offset the "takings" issue affecting private property, and is a catalyst for community revitalization.

Category 2 acknowledges the previous success of the program, but believes that it should be renewed with changes that will be effective in reducing abuses. Comments stressed the: violation of program rules and lack of adequate oversight, loss of historic integrity of some properties receiving the benefit, perception that some properties are not worthy of inclusion in the program and public benefit from residential properties is minimal compared to commercial properties, therefore, the open-house provision is one of the most important public benefits and should be continued.

Category 3 summarizes testimony that the program should be eliminated and replaced with another preservation incentive more closely linked to direct spending on rehabilitation. Comments expressing this opinion stated that: the program is a subsidy for some owners to avoid paying their full share of property taxes, there is a conflict of interest between those dispensing and those receiving the benefit, the qualifications for the program are tied to National Register criteria and do

not reflect any selectivity based on Oregon's values and the state's economic situation, and the program is no longer viable due to the impact of Measure 5 on local and county tax revenues. Suggested preservation alternatives include: use of local zoning restrictions, income tax credit against money spent for rehabilitation or property tax credit against the value of the rehabilitation.

Summary of Oral Testimony:

Testimony was heard by the Task Force during its meetings in Portland, Albany and Roseburg. Utilizing three locations enabled the members to receive varied local and regional information on the public's perception of the program. Statements were made by four categories of presenters: (1) property owners using the program, (2) other taxpayers not enrolled in the program, (3) representatives of business development and, (4) government officials.

In addition to the public testimony, representatives from the Department of Revenue, Legislative Revenue Office, and city government provided information on the fiscal impact of Measure 5, House Bill 2550 and the tax assessment freeze on historic property. The members heard that Measure 5 would not give significantly lower property taxes to specially assessed property because the reduced tax rates apply to the market value of property not the frozen value. This lowered the effectiveness of the incentive, and could have left some properties with assessments frozen at higher tax rates than

properties not participating in the program. To offset this possibility, HB 2550 applies rate limits to the frozen values instead of the market values, which provides savings for specially-assessed properties. However, the benefit to a property owner in the program is still reduced since the passage of Measure 5 due to the decreasing property tax rate.

The Task Force was also informed that the reduction in income from frozen assessments being experienced by county and local governments could no longer be recovered through a "shift," or increase in the millage rate, passed on to the balance of taxable properties. This shift is now considered a "loss" in income to municipalities. The severity of this issue is localized, depending on what level each taxing jurisdiction has reached, above or below the new rate cap, with Portland and Multnomah County experiencing the largest losses thus far.<sup>13</sup>

Other effects resulting from Measure 5 could not be made clear to the Task Force: whether properties coming off the program and back onto the tax rolls would offset the losses of those entering the program and what the different impacts would be on commercial versus residential property, which necessitated further studies. Suggestions to the group included indexing instead of freezing the value of special assessment properties. Indexing, also known as "trending," would follow the market fluctuations in property values, and be used to adjust the frozen portion of each property's assessment without including the value of the rehabilitation.

The revenue loss in Multnomah County was cited to be \$3.5 million, considered an insignificant amount.<sup>14</sup>

Statements from community leaders and business development representatives emphasized that financial incentives to preserve offset the pressures of economic development and create added value to the community, which is a public benefit because it both preserves and increases revenue. The Association for Portland Progress expressed the belief that Portland's distinctive buildings and quality of life are the features that appeal to visitors, and that saved Portland from the effects of the recession in the 1980s. The program has also enabled many small businesses who could not afford to rent Class A new office space to get started in Class H rehabilitated historic buildings at lower rents.<sup>15</sup>

The Oregon Downtown Development Association spoke about the success of mixed-use development in a downtown historic building in Albany. The public benefit of the project was described as helping to define the historic character of Albany, which is considered crucial to the city's redevelopment.<sup>16</sup>

Property owners from historic districts testified that rehabilitation improves the stability and safety of their neighborhoods. Several participants discussed the large costs of their rehabilitation investments compared to the small financial benefits they were receiving from the program.<sup>17</sup>

A Portland architect pointed out that the threat of rising land values to historic property is mitigated by this

program; also, that zoning regulations are not as protective as economic incentives to property owners.<sup>18</sup>

The scarcity of financial resources available to the individual homeowner for rehabilitation was also mentioned. Some of the owners in the program felt comfortable about participating in neighborhood-organized house tours, but had concerns about security problems that could occur with public signs and increased publicity.<sup>19</sup>

Critics at the Portland hearing focused on the public perception of an undisciplined program and preservation office which bestows the tax freeze without adhering to strict rules or a specific definition of public benefit.<sup>20</sup> Although the statewide importance of the program was stressed, some owners commented that residential properties were receiving negative publicity because they were not income-producing, while commercial properties were seen to produce a more measurable public benefit.<sup>21</sup>

Other concerns were expressed about perceived abuses by residential owners who made non-historic changes to their properties, and whether modern additions to historic commercial buildings were being included in the frozen assessments. One suggestion to the Task Force was to develop rankings of historic properties that are tied to a specific amount of public subsidy, ranging from government purchase of an important endangered structure to minimum or no subsidy for a resource that only meets minimal standards.<sup>22</sup>

The Parks and Recreation Commission representative was concerned that program emphasis has been on tax incentives which benefit the private sector, rather than on public benefit. He presented several directives: (1) the Task Force should talk to the general public and historians, in addition to people receiving the benefit; (2) economic impact needs to be weighed against public benefit; and (3) the preservation staff must address the complaints about the program.<sup>23</sup>

Property owners from the three Albany historic districts testified that the tax freeze has not been abused in their community. They asked the Task Force to renew the program without the more stringent rule changes under consideration at that time.<sup>24</sup>

While the tax freeze encourages owners to perform major rehabilitations, the real public benefit of the program was seen as a revival of Albany's neighborhoods: a heightened sense of place for the residents, renewed community stability and reduction in crime. Several citizens said the program was responsible for the "recycling" of Albany's historic residences, the cleaning-up of neighborhoods, community involvement in rehabilitating depressed areas and the creation of a cooperative situation. The benefits to the public were understood to be long-term and ongoing. The Albany Visitors Association identified factors they believed explained the success of the program: the economic value to the community of increased tourism, pride in the historic legacy of the area,

creation of jobs for local residents and rejuvenation of local industries.<sup>25</sup>

The Corvallis Downtown Development Association believed the tax freeze was the catalyst for the revitalization and restoration of downtown cores, which has allowed older commercial centers to compete successfully with suburban shopping malls.<sup>26</sup> The fifteen-year duration of the benefit appeared to be particularly important to the business community because it provided a stable long-term return on downtown investment.

The Douglas County Deputy Assessor testified that elimination of the tax freeze would save the county \$0.08 per taxpayer; this was insignificant compared to the taxes lost on timber and farm special assessments.<sup>27</sup>

The Community Development Director for Roseburg discussed the success of the Mill-Pine Historic District through the use of both the special assessment program for property owners and CDBG for site improvements. The Mill-Pine District has been a model renewal project, and is composed of low-to-moderate income housing that includes rental properties. Public officials feel that without special assessment the project would not have been undertaken.<sup>28</sup>

The Douglas County Historic Resources Review Committee stated that abuses or complaints about the program had not been received by the committee.<sup>29</sup>

The representative from the Oakland Historic Preservation Commission credited the survival of Oakland's

buildings to the program, and said that without the tax freeze historic buildings would have been demolished because the city's preservation ordinance is weak and needs to be strengthened. An important problem mentioned was how to protect the properties once they come off the fifteen-year program. Oakland also used CDBG funds administered through the local Council of Governments (COG) to provide loans and grants to low-income homeowners to repair and upgrade housing. These are loans for basic repair work, such as weatherization, re-wiring, plumbing, and new roofing. According to the Oakland representative, public opinion in this community is divided concerning the program: some participants believe that it currently requires enough of owners, while others feel it limits what owners can do with their property. However, the majority of Oakland's residents approve of the program and believe it has been responsible for keeping the community intact since the mid-1980s. Because of the high percentage of historic buildings in Oakland, real estate demand appears to be controlled by the value of the rehabilitated properties.<sup>30</sup>

The Douglas County Deputy Assessor said that Oakland contains the largest percentage of exempt properties in Douglas County.

Summary of Written Testimony:

The Task Force received written commentary from fall of 1991 through mid-April 1992. Letters from Portland revealed the opinion that there was a lack of public benefit from

enrolling residential properties in the program for several reasons: (1) they do not generate revenues, (2) they are held in private ownership, and often appear to look the same as neighboring properties not included in the program, (3) while the program was intended to benefit commercial structures the number of residential properties outnumber commercial in Multnomah County.<sup>31</sup>

There was also a belief that many residential properties were only "historic" in the retention of their exterior elevations, while the interiors (equal in importance under program rules) had been modernized without prior SHPO approval.<sup>32</sup>

The cities of Portland and Medford both declined to support the program: Portland because of the impact of Measure 5 on that city's revenues, and Medford because it believed that the program was of no value in preserving that city's historic buildings.<sup>33</sup>

The Association for Portland Progress, however, wrote that without the incentive program the historic core of downtown Portland would not have survived the economic turmoil of previous real estate cycles. The Association believed these structures would continue to be protected through the economic viability created by the assessment program.<sup>34</sup>

Testimony from Southern Oregon included support from the Douglas County Planning Department and a preservation specialist in Ashland, who pointed out the considerable public benefit that has occurred in the form of added value to the

community and private property owners resulting from participation in the program.<sup>35</sup>

Although supportive, the Douglas County Assessor was concerned about the problem of "abuse by sale," which meant when a program property was sold the benefit passed along to the new owner who had not made any commitment to investment in rehabilitation. The assessor's solution to this was to terminate the benefit upon the sale of a property, requiring the new owner to file a preservation plan with a new application to the program.<sup>36</sup>

The Chairman of the State Parks and Recreation Commission was especially active in seeking to modify the program. After assisting in the development of the administrative rules changes, he wrote to the Task Force members with a number of suggestions which included the following:

-- Separation of the special assessment program eligibility criteria from the National Register listing criteria, which is too broad to serve Oregon's best interests. In addition, define "Oregon historical significance," as set out in ORS 358.475, and how current program properties relate to this definition;

-- Flexibility in the amount of the tax benefit, which should be directly related to money spent for renovation. This could be achieved using other types of incentives, such as an income tax credit or a freeze on the added value of the rehabilitation;

-- Make the condition of the structure at time of application a factor in the selection of program applicants;

-- Publicize open-house tours and develop listings of properties participating in the program that can be distributed to increase visitation;

-- Extend membership in the SACHP to people outside of the preservation field to bring independence and objectivity to decision-making, using consultants for required expertise; and

-- Make explicit the duties and responsibilities of the SHPO staff and the SACHP to clarify which organization has authority over the tax assessment program.<sup>37</sup>

Summary of Final Testimony Resulting From Draft Report:

The draft report of findings and recommendations was distributed on May 18, 1992 to a cross section of persons who had expressed interest in the Task Force process. This was followed by the GFRC fiscal analysis at the beginning of July. Of twenty written responses received by the preservation office, four expressed a belief that the program should be allowed to sunset.

The City of Oakland wrote that the administrative burden imposed by the revised OAR made it impossible for this small community to support the program.<sup>38</sup>

The Clatsop County Assessor objected to the lack of maintenance or rehabilitation on many of the county's

participating properties, stating the opinion that the preservation office had insufficient staff to insure compliance with the regulations.<sup>39</sup>

The City of Medford was pleased with the increased participant requirements, but rejected the program because of the adverse fiscal analysis linking the incentive with revenue losses under Measure 5.<sup>40</sup>

Wasco County's Assessor thought the new incentive would only benefit those who made substantial repairs to their properties in order to qualify for the program. He commented that the rules discriminate against the less affluent property owner.<sup>41</sup>

The remaining commentary supported the Task Force report and included a variety of opinions on the different issues and findings:

**Tax Incentive/Indexing** - Respondents felt that indexing would be detrimental to the purpose of the incentive and would further decrease the value of the benefit, which has already been lowered under Measure 5. As an alternative to indexing, the Association for Portland Progress asked for a five-year phase-in as a transition from the assessment freeze to full value taxation for commercial properties including those enrolled in the program prior to 1983, before legislative changes allowed owners to withdraw from the program, pay back taxes and re-apply at a later date.<sup>42</sup> Oregon Downtown Development Association wrote that historic

commercial property could not be indexed accurately because this building category did not follow market trends.<sup>43</sup>

**Eligibility** - The City of Salem Landmarks Commission suggested that properties in historic districts which have been categorized as "non-contributing in present condition" be allowed to receive the incentive benefit if they were rehabilitated to a basic level that would make them "contributing" within the district. The Commission felt that expanded eligibility would provide a strong incentive for property improvement, which would also increase district values.<sup>44</sup> The City of Lake Oswego recommended that eligibility include locally-designated historic properties, in order to offer an incentive to those owners who are required to participate in a community resource protection program. Lake Oswego also asked that the program be put under local option, citing several states where enabling legislation allows local government to enact preservation incentives.<sup>45</sup>

**Preservation Plans** - The Kings Hill Historic Association in Portland wrote that participation in the program should be prefaced with a legal document in the county deed records, a copy of which is given to the assessor or to SHPO.<sup>46</sup>

**Public Visitation** - Two opposing comments were received on this issue: (1) The SHPO should empower itself and its representatives against property owners who refuse to allow access for bona fide academic research.<sup>47</sup> (2) Access for academic research should not be required.<sup>48</sup>

**Re-application** - Three testimonials approved the continuation of the benefit to owners who wanted to remain in the program, however, the City of Salem was concerned that the report did not discuss the possibility of properties in the current program withdrawing and re-applying after the approval of new legislation. Salem was opposed to any continuation of the benefit for a property owner beyond the original fifteen-year period.<sup>49</sup>

**Signage and Interpretation** - Comments on this issue varied from general approval of signs with basic information to a suggestion from the City of Albany for a program logo to be attached to existing local signs.<sup>50</sup> ODDA thought that sign requirements in addition to other changes would be too complex for small commercial businesses.<sup>51</sup>

**Conflict of Interest** - The May meeting of the SACHP resulted in a recommendation that the Task Force delete a section entitled "Conflict of Interest" from its report. The Committee felt that this issue had been resolved by the favorable report of the Department of Justice and was already being monitored through the Governor's review of candidates for appointment to the Committee.<sup>52</sup>

Another letter of interest was received from the Multnomah County Chair in Portland, calling the attention of the Task Force to the problem of double exemptions. Double exemptions are not allowed within the current statute. The result is that a non-profit organization or municipality may not occupy space in a historic building that receives the

special assessment benefit without losing non-profit status. Multnomah County supports the tax incentive program, and urged the task force to include a recommendation that this prohibition be abolished from any new legislation.<sup>53</sup>

Oral testimony was heard during the final Task Force meeting on August 17 in Salem. The Business Development Chairman of APP testified that the benefit fosters and supports economic growth. Indexing was rejected as a major disincentive for the following reasons: (1) It is inaccurate to trend historic buildings. Trending will tax improvements to historic structures by comparing the buildings to non-program properties, which is unfair to other owners. If non-program properties are trended upward the taxes on unimproved historic buildings will rise, which is also unfair. (2) If 5% is used for trending on the base value before investment is made, the future trending will be taxing the investment, with fluctuating payments, which is contrary to the intent of the program.

APP supported a program consisting of a frozen assessment for ten years followed by a five-year phase-in period, containing a 20% increase each year, until properties had reached full market value. While they acknowledged the loss of approximately two years worth of benefit with this option, APP thought it was preferable to the alternative of indexing, which they believed would bring a strong element of uncertainty to the incentive and was basically unfair. It was

noted that most commercial investment occurs during the early years of participation in the program.

The phase-in period was expected to be transitional, enabling owners to pass through gradual increases to their tenants instead of one large increase at the end. The phase-in would also put increased revenues into municipalities five years sooner, which would lower the cost of the program to cities that had reached their millage rate cap.

APP wanted to include the 170 to 180 properties enrolled in the program prior to 1983 in the phase-in period, believing this would correct inequities that had not allowed these owners to utilize post-1983 changes to the program.

APP also desired that commercial properties be exempted from changes to the program and guidelines, and believed that residential and commercial participants should be separated within the program. Commercial properties were seen to produce income and investment within the community, whereas residential properties were primarily used for individual owner investment.<sup>54</sup>

The Oregon Historic Property Association (OHPA) representative also rejected the indexing concept, noting the double reduction in benefits that would occur from trending and Measure 5. He discussed the ability of subsidized historic commercial property to be competitive in the rental market with other classes of properties for less affluent tenants.

In addition, he noted that HB 2550 corrects for properties frozen above their current market values by allowing tax assessments to be reduced to those levels, which was one justification for indexing.

OHPA supported the same proposals that were presented by the APP, and offered several examples of pre-1983 properties which had been unable to make rehabilitations during their years in the program because of the real estate depression that occurred during that period. Subsequent owners of these properties were not able to take advantage of the program under the old statute which did not allow re-application. The Task Force was asked to remedy this situation.<sup>55</sup>

The final testimony was received from a private citizen, employed by the Portland Development Commission and a member of the SACHP. She supported the Task Force report and the positions taken by APP and OHPA, but commented that the simplicity of the current program accounted for its effectiveness.

On the issue of signage, it was felt that SHPO should be supportive of a community's existing sign program, and the cost of any additional sign should be included in the application fee.

Other recommendations were that the value-of-work fee and the conflict of interest finding be deleted from the report. She added that development pressures on highly-valued areas, such as the West Portland Heights, have been kept at bay through the tax assessment. Examples were then given of

several Lake Oswego historic residential properties that had been demolished due to financial pressures, and it was noted that although the program cannot prevent demolition it provides an offsetting incentive, as well as a public benefit when the property returns to the tax rolls that is comparable to urban renewal.<sup>56</sup>

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CHAPTER VI.  
EVALUATION OF TASK FORCE PROCESS

Critique of Process

Task Force Mission:

In Chapter 1, I introduced the reader to the Task Force mission as it was presented to the members by the SHPO in August 1991; it is re-stated below:

[E]xamine the current statute and 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>1</sup>

The proposed organizational outline for the Task Force, written in early September, contained the following instructions under "Purpose:"

The task force will examine the effectiveness of the current law and its administration and review how or if the public has benefited from the statutory provisions. The task force should also consider whether historic preservation is best served by the present system [emphasis by author]. Should a modified or entirely new system of preservation incentives be enacted? Should the program be eliminated?<sup>2</sup>

The "Purpose and Goals" presented to the Task Force at the first meeting in September 1991 contained two statements:

1. Examine special assessment program and

report findings to Governor and Legislature.

2. Make recommendations for creation of an incentive program to assist in the preservation of historic properties in Oregon.<sup>3</sup>

The issues to be considered in this section are:

-- Was the goal too narrowly defined or was its interpretation constrained?

-- In view of Measure 5, should the goal have been instead: Is this program a worthy choice for the expenditure of public funds?

The proposed organizational outline and the purpose and goals both encouraged the Task Force to explore alternative incentives beyond the decision to renew or sunset the program. This suggestion was only implemented in a cursory manner, although several members tried to focus attention on the inadequacy of the tax freeze program as the only state-subsidized preservation incentive.

Testimony and Task Force investigation revealed a strong need for development of small-scale, locally-responsive financial incentives to assist the multitude of smaller properties for whom the tax freeze program under Measure 5 will not be a viable alternative because owners of these properties do not have the funds to invest in large rehabilitation projects.

The GFRC fiscal analysis revealed that Measure 5 will cause a decrease in both participant benefit and net public gain from the program. In other words, the program is expected to produce a modest gain in state and local revenues

over losses in the long-term. This, in conjunction with the change from a shift of the cost to other property owners to a loss of local government revenues, has forced the tax assessment freeze into the competitive arena of public expenditures. A number of Task Force members expressed concern about the fate of the program in the legislature if recommendations were not backed up with strong evidence of public benefits and some form of trending applied to frozen property values. According to testimony, some local governments felt they should be able to determine whether the tax assessment program has brought them sufficient marginal benefits to warrant continued support, or whether the money would be more effectively spent elsewhere.

As a reduction in quantifiable economic benefits from the program has been projected, offsetting qualitative benefits have become even more important.

Finally, according to the explanatory material written for the Task Force report, The Goal 5 mandate to identify, manage and protect historic resources has combined with the National Historic Preservation Act to create a strong state and federal program for historic preservation in Oregon.<sup>4</sup> While the tax exemption serves state and local governments certified by the state, known as CLGs, in the implementation of the federal program, there are few additional preservation incentives available to local governments from the federal government or the state to balance the Goal 5 mandate other than conservation easements, which are acquired by purchase,

agreement or donation. Incentives and easements help to offset the controversial "takings" issue, or private property rights being usurped by government without just compensation.

Goal 5 has been severely criticized by property rights organizations, such as Oregonians In Action (OIA), because local governments administering provisions of the Goal do not offer compensation to owners for regulating the use of private property. A memorandum circulated to city councils and county commissions from OIA urged officials to resist pressure from the LCDC to comply with Goal 5, stating that LCDC and DLCD do not have any regulatory power "...for compelling local governments to designate land for historic purposes... without compensation."<sup>5</sup> The memo continued with the statement that

"It should be recognized that historic designations are not the same as traditional zoning ordinances. There is no reciprocity of benefits and burdens...Individual landowners are forced to bear all the burdens and get no benefits, while the public gets all the benefits if any and bears no burdens. That's basically unfair!"<sup>6</sup>

I believe this statement to be inaccurate because historic designation is a valid zoning tool used by planners to preserve the resources and character of areas that are important to the context of the local community and the state. There are many benefits to the individual owner as a result of land use regulation. These include environmental amenities, increased property values, revenue from tourism, neighborhood revitalization and growth in preservation-related jobs.

There was some Task Force support for local incentive options that would defuse these negative opinions. Revolving

loan funds and neighborhood reinvestment techniques were recommended, and consideration was given to the idea of broadening eligibility for special assessment to include local landmarks which are not eligible for the National Register.

A parallel, and perhaps conflicting, goal made itself apparent during the first meeting in September: the time schedule. Needing to have the findings and recommendations completed for the Governor and the 1993 Legislature by July 1, the preservation office had planned on having a first draft of the report produced by late February 1992. A number of suggestions about scheduling hearings and meetings were made at the first session, including use of sub-committees and sending staff to take public testimony; they were not implemented because the project budget was barely adequate to reimburse meeting expenses of the members.

As the Task Force held lengthy deliberations on statements of eligibility, public benefit and an ever growing understanding of the complexities of the issues, the schedule began to slip. By the end of the third meeting in Albany, the project was behind schedule and the members had been unable to make a start on analyzing provisions of the current legislation. At this point, efforts to seriously consider alternative preservation incentives were set aside in order to focus on examining and amending the existing statute as the Task Force recommendation for new legislation.

In addition to the Task Force over-running the planned schedule, necessitating additional meetings through the

summer, the fiscal analysis on the pre-and post-Measure 5 impacts of the program had also exceeded the schedule, and was not available to the Task Force until July; by this time the draft report had been written and distributed.

Since the beginning of the process, the Task Force had been dependent for fiscal insight on the testimony of experts from the Oregon Department of Revenue and county assessors, the staff and one Task Force member who represented a county assessor's office. When the fiscal report was finally available, its findings contradicted some of the recommendations contained in the Task Force report.

While I will discuss process issues in the section that follows, the schedule of events summarized above helps to explain why the Task Force did not consider a broader-based preservation goal. The issue of whether the program was a good public policy expenditure in comparison to other choices, either pre- or post-Measure 5, was not debated, although discussion of public benefits skirted this question at various times during the process. Without adequate fiscal information or an economist among the members, there was almost no contradictory evidence to indicate that the basic concept of the program should be questioned. This opinion was reinforced by predominantly positive testimony, the intent of the statute and Oregon's land use planning goals, all of which appeared to support the continuance of this type of preservation incentive.

The intent of the state was for the Task Force to review policy first and then determine its fiscal impact. The opportunity was initially there for the Task Force to propose and develop alternatives, however, the lack of adequate budget and financial information, in addition to the compressed schedule, prevented the members from realizing the benefits of an expanded investigation.

#### Task Force Influences on the Process:

In examining the process issues I became aware of certain conflicting ideologies that had been overlaid on the process itself. These ideologies succeeded in creating minority coalitions among the members that were constantly shifting, that threatened the process outcomes and ultimately caused reversals in some of the recommendations. It would be inaccurate for me to assign each Task Force member a position with regard to these ideologies, as several members changed direction or remained essentially neutral while others straddled the fence on issues until the moment votes were taken. I have attempted to show the impacts of these ideologies on the issues and how the process was swept along in this current. However momentary they were, coalitions did form and exert considerable influence on the process goals.

I saw these ideologies as either "liberal" or "conservative." The liberal viewpoint featured an inclusive and expansive attitude about the incentive, desiring only those modifications necessary to fix perceived abuses, such as

indexing the frozen value and requiring rehabilitation or maintenance plans. The liberals believed the National Register represented the democratic precepts essential to the program: that all types of qualifying historic properties are equal and deserve to have access to an economic incentive program. To this faction cottages and other modest structures were every bit as significant as the most imposing architectural examples.

Alternatively, the conservatives wanted a basic restructuring of program parameters to eliminate a perception of conflict-of-interest between the preservation community and the State Advisory Committee on Historic Preservation, and to restrict program participation. This was approached through new eligibility criteria, county value caps, local control and a separate Oregon register. The conservatives had been strongly influenced by the previous bombardment of adverse media publicity and some negative testimony.

The Chairman of the Parks and Recreation Commission, in particular, had been very vocal about the complaints he had received pertaining to the incentive program.

The conservatives were convinced that unless significant changes were implemented the legislature would refuse to renew the program. The philosophical underpinning for conservative beliefs lay in a disagreement with the use of the National Register as the base criteria for program eligibility. The National Register was felt to be too broad and inclusive to provide adequate screening for participation in the state

program. There was also a lack of agreement with the guidelines as to what constituted a historic property of significance. The National Register's expansion into blue collar/working class housing and other marginally-perceived properties was criticized for a lowering of quality and standards from the best and highest examples to practically anything that could be accepted in order to be eligible for the state incentive.

#### Process Design V. Effectiveness in Fulfilling Goals:

Moving from the goals to the process, two additional questions present themselves:

-- Was the process adequate to meet the state's goals, or should it have been modified?

-- Would a larger goal have been supportable with the process that was used?

The Task Force adopted a "modified" consensus decision-making model at its first meeting. The modified format called for Roberts' Rules of Order to be used for structure and the insurance of a vote on decisions that could not be reached by consensus. Six of ten members present constituted a quorum for making decisions. The staff had recommended this process because it was thought to be an objective method for the discussion of issues in a low-conflict environment, backed up with a vote option in case there was deadlock on an issue. Also, the process was probably familiar to most of the members.

In addition, the voting option was expected to offset the possibility of a minority report. Although some members were concerned that the Task Force would not achieve consensus, the modified version was accepted by the group.<sup>7</sup> Including an option to vote, however, reduced the effectiveness of this method, because the members had less motivation to strive for a consensus.

The staff suggested a work plan consisting of collection and analysis of information followed by: review of statute provisions, current administration and program links with the SACHP, fiscal and public impacts of the program, Measure 5 impacts on the program, alternative preservation incentives, alternative eligibility standards, solicited public testimony, an examination of programs in other state and local governments and, finally, development of the Task Force report of findings and recommendations.

Almost immediately, this plan to prepare the Task Force to examine the statute was pushed aside by conservative members who wanted to address the public pressure to correct perceived abuses. These members were concerned with the responsiveness of the Task Force to potentially negative perceptions that might appear in the media. This concern resulted in each member being requested to file a conflict-of-interest statement with the preservation office before the first public meeting. In addition, testimony that was given at the first public hearing was focused on the alleged abuses reported in the media and proposed changes to the

administrative rules. Subsequent hearings revealed a continuing concern with the potential rule changes, but not with program abuses.

Although a chairman had been selected prior to the first meeting, it was the members who altered the work plan. The member representing private development suggested that brainstorming would be more productive than digesting data about program performance, and that the starting point for the task force should be agreement on public benefit, which would allow criticisms of the program to be compared to the consensus opinion on this issue. A discussion of the program link to Goal 5 requirements was suggested by the National Trust ex officio member, but the staff thought that would further complicate the process.<sup>8</sup>

Most of the second meeting was consumed by the public hearing. The information presented on Measure 5 and HB 2550 by the Department of Revenue and Polk County Assessor was important, and should have been given to the Task Force in a session separate from the public testimony. It would have been more productive for the Task Force to have initially agreed on a work plan, collectively reviewed the background information provided by the staff and had an instructive session with the revenue personnel before holding public hearings. This preparation would have provided the group with a cohesive organized framework in which to place the public testimony.

As soon as the first hearing was closed, there was a call for agreement on a statement of public benefit. The chair asked each member to send his or her definition of public benefit to the staff before the next meeting so all opinions would be circulated to each member. The chair then asked the members if they were ready to investigate specific issues. There were several different responses to this as individual priorities were voiced. The members were then asked what additional information the staff could send to them for the next meeting, although some had not familiarized themselves with the variety of materials that had already been provided.<sup>9</sup>

By the end of the second meeting, the staff work plan had been relinquished without a whimper. Neither the chair nor the staff "appeared" to be in charge of the process. Members had expressed different ideas on what should be discussed, and the beginnings of opposing ideologies that would struggle for control of the process were in evidence. The background information on the program which had been sent to each member had not been collectively evaluated because there was too little time and it applied to the priorities on the defunct work plan; this provided little motivation for the members to study the data, and there were even complaints from the legal representative member that there was too much paper to study.

Following the hearing in Albany, the chair reiterated the need to produce a consensus statement of public benefit.

Each descriptive phrase for a potential statement was debated, beginning with the suggested purpose of the program: to maintain and preserve properties of historical significance. This spun off into a lively discussion on the interpretation of "significance" as applied to the program's eligibility criteria and the member's individual philosophical beliefs about preservation and the incentive program.

A coalition of members representing private development, law and the SACHP wanted the incentive to be linked to more selective state or local eligibility criteria than the National Register, which they thought was too broad-based and inclusive for a state-sponsored incentive. An opinion was expressed that two separate statements and incentives were needed for two different types of significance: one incentive to preserve the best examples of historic properties and a second incentive to assist with neighborhood properties in need of rehabilitation.

In response, members representing Southern Oregon, rural outreach, architecture and landmarks commissions and preservation advocacy commented that the broadness of the National Register encompassed both of these categories and should continue to serve as the base eligibility requirement for the program because it enabled a more democratic dispersion of the benefit to occur. A tentative majority opinion on a single statement for the incentive was finally agreed upon by all members except the legal representative.<sup>10</sup>

The issue of conflict-of-interest resurfaced because the private development and SACHP members felt the majority were prematurely advocating a continuation of the incentive when they were supposed to be objective and unbiased. Ex officio members and their representatives were also asked to submit conflict-of-interest statements although they would only participate in the discussions and could not vote. While the preservation advocacy member felt he had been asked to serve on the Task Force because of his interest and experience with preservation issues, it was generally agreed that every member had some conflict-of-interest, even if it was simply holding a personal opinion on the subject.<sup>11</sup>

To the dismay of the staff, the modified consensus model had not proved to be an effective method for developing Task Force decisions. Minority coalitions appeared to have taken control of the group process, and were deciding what was to be discussed and how the Task Force should proceed.

In addition, since the previous September, correspondence had been passing between members, the chair and the staff as an aftermath to the scheduled meetings. The first letters contained opinions held by the more conservative members that were critical of the program and the Task Force composition. The letters provoked responses from the liberal faction, producing an informal level of debate outside the legitimate group structure which was not conducive to the cohesiveness of the members and their attempts to arrive at consensus decisions.

It was apparent after the third meeting that the Task Force had to be brought back to an agenda that would re-emphasize their mission and restore the time schedule. The philosophical and conflict-of-interest issues, seen by the SHPO and staff as a proportionate part of the goal had, instead, become the preoccupation of the group. These issues needed to be tied to specific provisions of the statute in order to accomplish the review that was the primary SHPO mission.

Following the final public meeting in Roseburg, the chair introduced a group facilitator who would structure and focus the members' ideas on the sections of the current statute that needed to be reviewed. The facilitator began by instructing each member in turn to express which sections should be retained, so that a consensus could be reached at that level. Once the agreed-upon items were out of the way discussion would begin on the controversial sections. This provoked a response from the preservation advocacy member that the statute should be the end result of preservation issues that had been examined as a whole, crafted from the resolution of those issues, and not a piecemeal review of the pre-existing legislation. Related to this opinion was a concern that alternatives to the statute would be overlooked by spending most of the time on this focused examination. The downtown development association member had uncertainties about the continuation of the program, and there was confusion over whether the eligibility issue had been finalized or was

still open to discussion. The chair expressed an opinion that the way to examine the critical issues was through the existing statute in an orderly manner. Task Force members were reminded by the staff that their first priority was to review the current statute to retain, amend or discard its provisions.<sup>12</sup>

At this point, the Task Force seemed to suffer an identity crisis. Members were unable to agree that they were there to serve this priority. A member who specialized in preservation advocacy argued on behalf of Oregon's multi-faceted preservation needs and the inadequacy of this single alternative to fill most of those needs. The legal representative rejoined that the purpose of the Task Force was to insure that the SHPO survived the sunseting of the incentive program, by providing approval for a continuation. In an effort to regain control, the chair inquired whether any members wanted the statute to sunset. This brought general agreement that the object was not to sunset the legislation, but to improve the current statute; and that the Task Force would not recommend extending the current statute without changes. Having agreed thus far, the members also agreed to examine the balance of the statute to identify "hot issues," or controversial items, that needed further discussion using the facilitator's techniques.<sup>13</sup> The results of this primary screening identified a list of philosophical and technical issues important to the Task Force:

**Philosophical Issues:**

Open house; subsidies and incentives; maximize inclusion of historic properties; maximize opportunity for rural properties; encourage participation of local govt.; clarification of standards; interior v. exterior; balance what is wanted v. what can be administered; separate SACHP from special assessment program; state govt. mandates at local govt. expense; match appropriate incentives to each project; place limits on program.

**Technical Issues:**

Maintenance/rehabilitation plan requirements; duration of benefit; re-application; design review; signage; manageability; eligibility/ transfer of same; indexing; technical assistance; individual property benefit cap; increased fees for managing program; phased re-entry to tax rolls; voluntary withdrawal without penalty.<sup>14</sup>

With hearings concluded, the Task Force next met in Salem. This meeting, and the one following in March, were additional facilitated work sessions to enable the task force to craft its statutory recommendations. As the members were still in agreement to work through the provisions, the facilitator led the group from where it had left off at the previous meeting to the end of the statute. They examined each section individually without discussion of whether the

provision should be included or not, but defined the issues that related to that section.

At the completion of this primary goal the facilitator offered two alternatives for continuing: the task force could rank order either the "hot issues" previously identified or the sections of the statute, one by one. An overlap between issues and sections was expected to occur.

The group decided to first prioritize the technical "hot issues," then examine the philosophical issues, and finally relate all of the issues to the relevant sections of the statute. The facilitator asked the group to select three issues from the original list and then to choose the most important of the three; that was quickly decided to be 'eligibility.'

A tentative majority statement had been drafted earlier using the National Register criteria as the starting point for eligibility, however, the conservative coalition continued to believe the program should be separated from the National Register. A number of suggestions were made including the use of the statewide inventory located in the preservation office or creation of an Oregon register. The more liberal faction believed that indexing, rehabilitation requirements and additional controls would serve as screening devices for inappropriate use of the incentive.

Indexing of frozen property values, in particular, was approved by the majority of the Task Force as the primary

method of eliminating participants who wanted to use the program as a shelter against increased property taxes.

During the discussion, which was generally unstructured, the facilitator would rephrase what the group had said and check for agreement before writing it down on a flip chart. In this way, progress was made through the first five issues to reach tentative agreement.<sup>15</sup>

At the following meeting the facilitator reviewed the group's progress thus far; everyone seemed to be satisfied with the revised process. For members who had not been present at the previous meeting, the first five issues were temporarily closed to further discussion until the balance had been evaluated. The first item on the agenda, 'subsidies and incentives,' resulted in a discussion on alternative incentives the group believed important to be investigated:

1. **Revolving loan fund** - the state should sponsor a locally-administered preservation fund with the potential of eventually reducing the number of participants in the incentive program. This would offset some Goal 5 complaints.

2. **Property tax exemption**

3. **One-time corporate income tax credit** - this could be used along with the special assessment program for income-producing properties that had an approved rehabilitation plan. (This idea was considered for the original 1975 legislation.)

4. **Individual income tax credit** -16

The private development member felt these recommendations were not the responsibility of the task force.

The discussion was then shifted to the "value" of the program having increased to a level that could no longer be supported by some communities. It was suggested that perhaps counties could participate on an optional basis or there could be a limit to participation, expressed as a percentage of the millage rate. The majority of the members felt this would not be equitable.

The open-house issue that had aroused an emotional public response during the OAR hearing was easily removed from the visitation provision by general agreement, with exterior viewing considered adequate.<sup>17</sup>

The sentiments to limit program participation arose in another form when the group began to discuss 'balance what is wanted v. what can be administered.' This issue dealt with the program's administrative impact on the preservation staff. While the staff suggested an increase in fees, another opinion from the conservative members was that applications could be limited to reduce the staff workload, perhaps with the establishment of a separate incentive eligibility review board.<sup>18</sup>

Subsequent activity initiated a discussion of philosophical issues which had provoked conflict between members. The first issue, 'encourage participation of publics,' brought out the two opposing positions: (1) encourage participation by making the program as accessible as

possible; (2) limit participation through use of millage rate caps and other restrictions. Several members felt that somewhere between these extremes the group could arrive at recommendations that were generally inclusive but had specific filtering devices to reduce participation to qualified recipients. They also wanted to avoid the impression that the program was punitive or overly restrictive in nature.

The issue of 'state v. local expense' brought opinions from both the architectural and landmarks commission member and the development Task Force member that local decisions based on political expediency rather than preservation standards would cause a loss of historic resources, and that the program costs were minimal. Communities that were pro-preservation would value their resources while those who had other priorities would not.

In opposition, the private development member noted that local government currently had no control over who received the benefit and should have a say in how much money was allocated for this expense.

The development Task Force member asked why the state couldn't enact an income tax credit or loan program to support preservation instead of making local communities pay for the incentive; this would also provide visible support for the Goal 5 mandate.

Other liberal members believed local control would politicize the program, removing it from the historical oversight and control of the state, that Goal 5 was a state

not a local law and that control should not be given over to special interest groups.

The legal representative member asked why local control couldn't be given to the county assessors, which might provide more consistency in upholding the intent of the program, but this was countered with a comment from the Southern Oregon representative that administrative expense would be prohibitive and act as a further disincentive for counties to participate.

The ex officio representative from the National Trust contributed that Oregon's program was well thought out and effective in its goals in comparison to some other states.

A motion for the Task Force to validate continued state control of the program, with no local veto option on participation, was voted on and passed five to three.<sup>19</sup>

The next issue concerned 'separation of SACHP from the special assessment program.' Originally included to respond to the conflict-of-interest concern with review of applications, the chair felt the issue of creating a separate review board was no longer relevant since the task force had agreed to continue use of the National Register as the standard eligibility criteria. Conservative members still believed that persons owning historic property should be restricted from participating on the SACHP. The resolution of this issue was finally left with federal guidelines on conflict-of-interest and the Governor.<sup>20</sup>

With 'maximize opportunities for rural properties,' the Task Force turned its attention to suggestions for an outreach program. One member who specialized in knowledge of rural counties suggested that technical assistance be provided to communities that did not have the necessary expertise to participate in incentive programs.

Other suggestions included: use of one full-time employee for state outreach, modified easy-to-use forms, continue to have an outreach person on the SACHP, use the SACHP as outreach volunteers, leverage support through use of non-profit organizations, contact universities and CLGs for available expertise and track National Register nominations in rural areas for candidates for the incentive. Detailed development of these ideas was not pursued.<sup>21</sup>

The last philosophical issue discussed was 'place limits on program.' According to its advocate, the member representing private development, the idea behind putting a cap on program benefits was that the cap would represent the amount of preservation value, or public benefit, that Oregonians were willing to pay for. For residential properties, when that cap was reached the door would be closed - on a county-by-county basis - to further new participation unless current participants came off the program.

The architecture and landmarks commission member noted that a cap could be helpful to a smaller government against a severe revenue loss under Measure 5, with the cap increasing

at a rate comparable to the growth in value of the rehabilitated properties under special assessment.

The staff pointed out that the proportion of properties returning to the tax rolls would accelerate now that their fifteen-year participation was coming to a close. If indexing were adopted by the Task Force lost revenues would be lower, alleviating the need for a cap.

An additional comment voiced by the Southern Oregon representative said that a cap would be a negative preservation message to Oregonians that historic resources had a value limited by economics.

The Task Force ultimately decided to postpone a decision on this issue until the fiscal analysis had been completed.<sup>22</sup>

The facilitator had been with the Task Force through the first three meetings of 1992. During this time the members had agreed to work through the statute, extracted that which was acceptable to the majority and identified the philosophical and technical issues in need of further discussion. When preliminary discussion on these issues had been exhausted the Task Force had utilized the majority opinion to arrive at recommendations.

At the April meeting the Task Force was on its own once again. This meeting provided the first opportunity for the members to go through the discussion draft; the first of three renditions of the draft report which concluded with the public review draft released May 15.

The members spent some time evaluating the length of the benefit. The assumption was that most businesses made their preservation investment at the beginning of the incentive period rather than spreading it over the fifteen years.

The architecture and landmarks commission member was concerned about the increasing number of demolition applications for commercial structures in Portland, and wanted a flat fifteen years for all properties. There was even a suggestion made by the development Task Force member to extend the period to twenty years for income-producing properties. It was noted that a phase-in period would probably be unacceptable to county assessors because of the additional administrative burden.<sup>23</sup>

Members representing rural outreach and downtown development associations were convinced that increased fees would be a disincentive to residential owners. The Task Force had decided earlier on a flat application fee and an additional percentage fee based on the value of the improvements. An effort was made by the group, with staff support, to determine the amount of income and expense attached to the preservation office plan review process.<sup>24</sup>

A decided conflict appeared with the review of the tax benefit value cap. Both the private developer and the development Task Force members wanted the recommendations to include a county-wide value rate cap based on the current cost of the program. They feared that without a limit the Legislature would sunset the statute due to the growth in

value of program properties in Multnomah County, which they believed had exceeded an acceptable level. They also felt a lack of restrictive criteria in the other recommendations had left the cap as the way to institute limitations.

Of course, this idea was strongly opposed by the rural representative who felt that other means had been found to restrict Multnomah County abuses. This member cited the impending earthquake-proof retrofit requirement which would be an additional disincentive to Portland properties.

Another member reminded the Task Force that historic property values would probably not increase without the program and that these increased values would generate additional revenues over the long term.

The question in need of answering was: how were investments in commercial properties related to the tax incentive program. The liberal coalition was convinced that the program should foster a positive pro-investment attitude without the negative implications of a value cap. In addition, they noted that the farm and forest subsidy programs were not burdened with value caps. The chair remarked that it would not be difficult to show how increased economic gain to a local government is due to historic properties and this program. The issue was finally put aside until the fiscal analysis was available.<sup>25</sup>

When the adoption of recommendations arrived at rural outreach and other incentives the group decided the Task Force did not have enough information to discuss any alternatives

other than rural outreach, with which the preservation advocacy member disagreed. A statement was included recommending that the Legislature follow up on these suggestions at some future time.<sup>26</sup>

The May meeting started off optimistically as the Task Force seemed confident they were nearing completion of their goal. An amended design review fee schedule was adopted in addition to the application fee, although the member from Southern Oregon felt that the cost of the program was being unfairly shifted to property owners and the legislature should agree to pay for a state employee to handle design review.<sup>27</sup>

The length of the benefit was discussed again, as the members waivered between the flat fifteen years and a ten-year flat benefit with a five-year phase-in. The Task Force could not understand the willingness of businesses to sacrifice what amounted to two years of benefits in favor of the five-year step down. It was apparent that the phase-in would be used as a financial planning tool for commercial property owners to ease their transition back to full market values. One of the members contacted the APP to verify its support for the phase-in and was informed this was APP's way of showing sensitivity to public opinion critical of the program: to allow some revenues to begin flowing back into city government five years earlier than with the current program.

The consultant from GFRC confirmed that the commercial value of the program was strongest at the beginning and diminished in the last years.

A vote was taken with six to three in favor of the phase-in, however, the victors were dissatisfied with the lack of consensus and called for reconsideration of the motion. No one had strong feelings either way about the recommendation and the group ultimately decided that if the phase-in was popularly supported the Legislature could change the recommendation, therefore, the Task Force would renew the program duration for a flat fifteen years without phase-in. This was approved by all but the legal representative member.<sup>28</sup>

The consultant informed the group that the tax freeze primarily effected holding costs of the property, with secondary impact on investment decisions. However, the new rehabilitation/maintenance plan requirement would move investment to the beginning of program participation from the end, where it was currently occurring.

In Multnomah County, 6/10 of one percent of the total valuation of properties participated in the program in 1991. The consultant felt that with indexing included, the need for a cap was unnecessary because indexing would adjust a property's base value to the current market value. The Task Force was considering two artificial devices - a frozen base value and a cap. The amount of benefit received by the owner depended on the real estate cycle at the time the property entered the program. The cap would act as an arbitrary limit that was also dependent on the real estate cycle. This would

be in addition to the reduction in the long-term value of the incentive caused by Measure 5.

The private development member continued to feel that the cap would be visible proof the Task Force had responded to public criticisms, however, other members were not persuaded that a superficial cap was the key to renewing the statute.

Comments were heard from rural outreach and downtown development association members about unfair comparisons between Multnomah County and the rest of the state. The downtown development association member noted that a cap would favor a "first come, first served" kind of preservation that was not the objective of the program. In rebuttal, the private development member stated that if a single rate cap from Multnomah County was used there would be no location except Multnomah County where the cap would be reached, hence it would not be a problem to other municipalities.

The chair commented that it would be damaging to the credibility of the program if the Task Force recommended a cap that would never be reached.

A barrage of additional criticisms from the majority of the members assailed the value cap as a screening tool to prevent participation in the program, and said it would be ineffective at keeping out the type of properties that are causing the problems. A vote was taken to remove the value cap from the recommendations, which passed five to three.

The possibility of a dual majority/minority draft report for public comment was mentioned, however, it was decided to

include the minority discussion with the group recommendation.<sup>29</sup>

The consultant contributed the information that there was currently no community in the country using a cap in conjunction with a historic property tax incentive program. Several methods from other states were suggested to the Task Force to limit participation in the program:

1. Most properties required a sizable initial rehabilitation investment.
2. Other states had enabling legislation where local governments decided on the eligibility of properties to participate.
3. The level of required investment could be adjusted up or down for control.
4. The time schedule and quantity of information processed could be adjusted to slow the inflow of properties to the program.<sup>30</sup>

The consultant also informed a disappointed Task Force that the data collected thus far was inadequate to perform the required economic analysis, and the GFRC report would not be finished before the end of June.

The July meeting was for the purpose of reviewing the draft copy of the fiscal analysis. The most unfortunate thing about the initial report was its negative impact on the members of the group. In essence, the report was not what had been expected. The members were almost deflated in spirit as they gathered to ponder what to do next to remedy their (they

believed) questionable, or perhaps harmful, recommendations. The Task Force report to the Legislature was already overdue and those recommendations concerned with increased fees, indexing and the related value cap needed to be revisited in light of the findings in the GFRC report.

The consultant explained that the lack of consistent data from county to county made an accurate historical evaluation of program performance difficult, if not impossible, to develop. It was also pointed out that Oregon's program did not require this data to be recorded, therefore, with the exception of Lane and Multnomah Counties assessors had not collected usable trending data on the values of properties under special assessment; they believed it to be a pointless exercise until these properties rolled off the program.

GFRC's report was able to present a picture of how the program had been utilized around the state, the amount of the tax shift before Measure 5, the estimated increase in value to Multnomah County homeowners in the program, projected impact of Measure 5 on homeowner benefits, information on the rentals of Class A to Class H commercial space in Portland and a sampling of information on incentive programs in other states. The consultant explained that public sector benefits were difficult to quantify for several reasons:

-- governments don't have any systematic method of following them;

-- public benefits spill over to many areas and are usually not specific to the area in which they occur; and

-- there is little or no inclusive time period in which to determine when public benefits have occurred. The consultant thought an estimate could be calculated by examining the previous rates of property appreciation in addition to the amount of rehabilitation investment already made.<sup>31</sup>

This information was not reassuring to the Task Force. Where before they had been confident, the members were now concerned about the restrictiveness of their recommendations and frustrated that the fiscal information had not been available to them from the beginning of the process.

In an effort to tie investment directly to the benefit, the staff had already proceeded with plans for a Portland firm, Market Trends, Incorporated, to conduct a survey of owners in the program to determine how much, and when, rehabilitation investment had occurred in both commercial and residential properties.

The Task Force felt that one of the problems with the GFRC report was that it was centered in Multnomah County because of the availability of data, however, Multnomah County was not representative of the rest of the state. The market survey proposed a broader scope by using owner information from Lane, Linn and Multnomah Counties extracted from the preservation office files.<sup>32</sup>

The consultant further advised the Task Force that the assessment freeze was too broad to accomplish specific program targets. The following suggestions were offered:

-- To encourage owner-investment, program requirements should feature a minimum investment level.

-- While indexing was not recommended for commercial properties, a viable technique for historic commercial buildings was to tax them at their actual use instead of their highest and best use.

-- In Georgia, the value of the improvement was abated, while the base value of the property was trended.

The consultant believed that indexing would further reduce the value of the program when added to the impact of Measure 5, and would result in inaccurate trending of historic properties. The application of a standardized rate of appreciation to both historic and non-historic structures was not accepted as valid because the two types of property did not react to market conditions in the same way.<sup>33</sup>

The Task Force met twice in August to review their recommendations and discuss the results of the market survey, additional fiscal analysis that had been performed by the consultant using data compiled from the federal Investment Tax Credit program and several indexing scenarios that had been developed at the members' request by the staff.

Some members were in favor of separating residential from commercial properties and indexing the residential, however, the member representing county assessment informed

the group that property was trended by class, not program or age, on a county-wide basis. Splitting classes into subgroups was not feasible. The representative from Southern Oregon continued to support indexing as the way to cure problems of abuse in Multnomah County, and felt that commercial properties could be compensated for the trending in some other way.

It was also mentioned by the county assessment member that with indexing, properties in counties with lesser values would be trended downward automatically, eliminating another problem with the current program of owners having frozen values in excess of current market values.

The preservation advocacy member expressed concern that some properties may be over-assessed under the "highest and best use" maxim, and would never earn enough to guarantee their continued existence. The county assessment member told the group that properties could appeal to be "down-zoned" to current use for four consecutive years under Oregon Statute 301.341. The difficulty was that properties could not carry a multiple exemption; it was either current use or historic use.

Although the group had planned an orderly review of recommendations, the balance of the first August meeting was spent in introspective discussion of unanswered questions that concerned the members, such as: What to do about rural properties which did not have the money to invest in large rehabilitation projects, and would have no incentive to participate in the program? What other tools were available locally to help the lower value, modest rehabilitation

property owners? What to do about developers who were buying up under-valued properties and joining the current program before restrictive changes could take effect? What effect on a value cap would a split-role have if approved by the voters in November 1992?

Some new information was contributed by members: the downtown development association member discussed the 2%, two-year, revolving guaranteed loan program in Albany, which had begun with \$20,000 in seed funds. The program was now offering up to \$5,000 per property, with other neighborhood investment spill-overs, and had fourteen completed projects thus far.

The county assessment member told about the Portland "residential rehab program," which trends and keeps current market values to show to people who are not participating. This program is targeted at a few pilot neighborhoods in Multnomah County. For ten years property is trended up or down according to current market values, with all improvements frozen. Owners qualify for low-interest loans using Portland Development Commission money; 150 properties are currently participating. The base property value has been at \$30,000.

The staff contributed information about maintenance costs, citing the Shelton-McMurphy House, Eugene, re-roofing project as an example of the type of major investment - \$30,000 - involved in removing three levels of roofing materials and installing a minimum replacement..

The member representing rural interests felt that while indexing would not directly effect rural property owners it would, in combination with Measure 5, create a large enough disincentive to eliminate the marginal investment in rural communities. There was also concern for these localities because many did not have resources to create revolving loan programs.

The question of indexing in Portland was discussed because the real estate market there is currently over-built and under-utilized. This was attributed to the flight of capital from real estate to other investments, and indexing was expected to make the situation worse.

The preservation advocacy member wanted to know whether allowing dual exemptions, such as current use and special assessment, would offset trending of commercial properties. It was also suggested that a double exemption for commercial be combined with a revolving loan fund for bottom-end properties, to be administered to localities through the preservation office, and that an "endangered properties" fund be created.

The legal representative member of the group wanted clarification of the re-enrollment policy, and also informed the members that the new statute would be "prospective," not "retrospective." That is, participants in the current program would be bound by the current statute not a new one. Everyone noted the implication that the preservation staff would have to administer two programs simultaneously.<sup>34</sup>

In my opinion, this was the most profitable and worthwhile meeting the Task Force held. It was ironic that it occurred almost at the conclusion of the process, as though hindsight had finally enabled the members to address the issues instead of trying to "sell" their points of view.

This was the type of meeting that should have occurred early in the process after a financial evaluation, possibly before the hearings and examination of the statute and certainly before recommendations had been crafted. It was at this meeting that the ramifications of the problem became clear, information was shared and the members at last seemed to listen to one another and understand, if not agree.

The final Task Force meeting occurred one week later, on August 17. Unfortunately, the rapport that permeated the previous meeting had dissolved in the interim. The last meeting was, in three words: pressure, coalitions and polarization. This was probably exacerbated by an unfavorable article from Clatsop County that had been reprinted in The Oregonian only two days previously.<sup>35</sup> The Task Force was frustrated that only negative publicity was finding its way into the media. The group suggested that the chair write a guest opinion for The Oregonian, and that individual members follow up with interpretation of the recommendations whenever possible.

Following the final public hearing in response to the draft report the Task Force revisited each provision, putting the all-important matter of indexing as the last topic of

discussion. The issue of tertiary eligibility that had arisen during the morning hearing was discussed, with the group generally supportive of including some discretionary language in the eligibility statement. However, it was finally decided that such structures would be considered for eligibility after they had reversed incompatible treatments, and this would be judged on a case-by-case basis by the preservation office.

The staff noted that documentation of older historic districts was being updated, and this could change which structures were now eligible to participate.

The design review fee schedule was dropped, although the application fee and the recommendation for an additional full-time employee was kept.

The Task Force moved quickly through the rest of the report, adopting two new recommendations that dealt with allowing multiple exemptions and clarifying retroactivity.

This brought the group to the concluding item, the indexing proposal. As discussion proceeded the members polarized on either side of the issue - pro or con. The interesting thing was that some realignment occurred as members shifted from one side of the issue to the other. The architecture and landmarks commission representative and the development Task Force member argued for eliminating indexing for a variety of reasons:

-- Indexing was a political solution to make the program more attractive to a hostile legislature;

-- Indexing would bring uncertainty to long-term business investment decisions;

-- According to GFRC, the program has brought multiple public benefits;

-- Municipalities will stop relying on property taxes for revenues under Measure 5 and find alternative sources;

-- Preservation of historic resources cannot be compared with funding fire, police and other community services;

-- The commercial real estate market was depressed and indexing would make the situation worse;

-- With indexing the burden will fall directly on each property owner versus being spread to the whole community, which benefits;

-- People without major reinvestment money will not have other options, and the program will be "elitist;"

-- Indexing is not required of farm and forest properties; and

-- Requiring a preservation/maintenance plan takes care of the abuse problems.

Arguing for the pro-indexing position were the downtown development association member, the legal representative member and the county assessment member. The arguments for indexing proceeded as follows:

-- Since Measure 5 local government is paying for the program and needs to know values are increasing. The

demand is current and future; fifteen years is a long time to wait;

- It is accurate to trend historic buildings;

- Measure 5 puts every property at the same level.

The historic property owner still has an advantage under HB 2550, which interprets the initiative;

- Indexing is a minimum concession to the realities of the situation;

- The program does not fill the rehabilitation needs of lower-income property owners, and will not be marketable to the Legislature as a statewide program without indexing included;

- Smaller property owners can go to their assessors and request a reduction in their taxes because they have been trended up beyond their area's values or their ability to pay;

- The exemption itself is elitist not the trending, because everyone else is trended;

- Although Measure 5 will reduce inappropriate use of the program, it has gone from a tax shift to a tax loss to governments;

- Although the money returns eventually it is needed today; and

- Other controls have been eliminated and maintenance could mean only a coat of paint. It is important to show a large projected return to community revenues.

The preservation advocacy member remained neutral throughout the debate, and then offered a suggestion that the freeze be allowed to occur for the first five years to allow for rehabilitation investment, followed by indexing of the frozen value for the remaining ten years. This was put in the form of a motion, but the other members refused to discuss a compromise.

The member representing rural communities reported that compression effects in two localities had already forced budget cuts of nearly fifty percent, under the cap required by Measure 5.

With two members absent, the Task Force vote on the indexing recommendation was four against and three in favor, with one abstaining. The chair stressed to the members that they would have to testify to the Legislature as a body on their findings. The chair then took a vote of all members in favor of accepting the substance of the recommendations. All members present voted yes except for the county assessment representative and the legal representative. The legal representative informed the group that he planned to write a minority report to be included with the Task Force report to the Legislature.<sup>36</sup>

#### Summary of Process Achievements and Problems

For review, the pros and cons of the consensus model are presented below:

-- Consensus is known to produce higher quality decisions than majority vote without the high degree of combativeness or structure associated with dialectical inquiry and nominal group technique, respectively.

-- Cooperative team effort with input from each member is required, which contributes to greater acceptance of the decision by the group.

-- Consensus requires experienced facilitative leadership.

-- Depending on the size of the group, consensus takes additional time for members to communicate and reach a group decision.

-- Group cohesiveness may not be secure enough to insure contributions from all members.

-- Some members of the group may seek to dominate the process.

-- There can be lack of satisfaction with group accomplishments.

The Task Force modified consensus experiment, while effective in stimulating the communication of personal beliefs, had not been able to bring the members together to work on specific goals. Unstructured discussions had only served to highlight the group's lack of cohesion, while time and creative ideas had been lost to ideological swordplay among argumentative factions who represented strongly opposing viewpoints. The energies of the chair had been directed towards conciliation among the various antagonists.

In my opinion, successful use of this method would have required a more compatible group membership, possibly people who had successfully worked together before in a similar decision-making process. Although it is difficult to predict, different individuals acting on the process might have produced a more effective process. I believe the existing composition of the group may have had a strong negative impact on the process. With a different mix of members the facilitative leadership style of the Task Force chair would have been appropriate for the consensus model. However, these representatives were selected, and they did bring opposing points of view together to see if a new statute could be forged from the differences.

The facilitator brought in by the state was knowledgeable in nominal group technique (NGT). This person was an outsider with no "interest" in the outcome except to clarify and expedite the group process. After initially balking at the change in control, the members were able to agree to work methodically through the statute.

NGT provided several advantages over consensus for group decision-making:

- Everyone participated because there was less competition between members and less criticism of ideas.
- Participation equalized the group, which reduced the dominance of minority factions.
- More ideas of better quality were produced with NGT than with the consensus model.

-- Members of the group were more satisfied with the method and the decisions reached.

-- The process provided a substitute for the lack of an authoritative leadership style that was necessary to control the direction of the group.

Instead of the standard NGT method of each member writing ideas in silence and then submitting the ideas, one at a time around the group, each numbered section of the statute was verbally dissected by all the members in turn, with each member contributing one idea or opinion per round without criticism of anyone else's contribution. All of the ideas were recorded on a flip chart, whose pages were then hung on the walls next to the meeting area. While NGT did not alter the ideological split between members, the group had finally found a technique for working together towards a common ground in spite of their differences; every member had an opportunity to be heard without criticism and every member's ideas were valued equally.

For this group, I believe NGT was preferable to alternatives that could have been chosen, such as the delphi technique or devil's advocacy, and definitely superior to consensus. NGT allowed the important interaction and development of ideas that are brought out in a group setting, which could not have occurred with the delphi technique, and it also controlled for the confrontational hostility that would have taken place using devil's advocacy. If NGT, in combination with a work plan, had been used from the beginning

of the process I believe that a broader scope of preservation issues would have been manageable for the Task Force to investigate.

### Outside Influences on the Process

**Timeliness of fiscal analysis** - When the Task Force began work in September a contract for the fiscal analysis had not yet been negotiated with the National Trust Critical Issues Fund, although the proposal had been submitted at the end of May 1991. The Request For Proposals was not released by the preservation office until January 1992. In the meantime, some members of the Task Force had been asking for fiscal information on economic impact to the counties and some sort of sampling of how indexing would effect properties that had, or had not, been rehabilitated since the previous fall meetings.

By February's meeting the fiscal analysis had not yet been awarded, but the staff reported that it would contain a draft document presented to the members, a comparative analysis and a case study; completion was expected at the end of May.

The staff announced at the March meeting that two proposals had been received in response to its RFP for a fiscal analysis of Oregon's program, and GFRC had been selected to perform the analysis.

Finally, at the May meeting, the Task Force met the GFRC consultant. The group expected to receive information that

would guide them to final decisions on the unresolved issue of placing limits on the program. That information was not forthcoming as the consultant had run into problems of his own locating useable data within the time and budget constraints of his contract.

The result was that the most important issue, upon which other provisions were dependent, was left up in the air until the draft of the analysis was completed at the end of June. That draft contained results that did not affirm the previous work of the members.

At the July meeting the group's decision was put off another month while the staff and consultant ran indexing scenarios, had the market survey performed and made adjustments to the public benefits section of the analysis. Time had run out in August, when the Task Force met see how the damage could be repaired.

In the Critique of Findings, Chapter 4, I suggested that with such a limited time schedule and budget one of the graduate programs at Oregon's universities might have had the resources to provide more timely information. It might even have been possible to have produced a unified effort in the different regions of the state by using the university system.

Regardless of the choice of consultants, anticipation of the problems that could result from the Task Force not having this fiscal information at the beginning was fully realized by the preservation office. A conservative coalition of members, along with the Chairman of Parks & Recreation, believed the

analysis would be biased in favor of preservation because it was funded through a grant from the National Trust for Historic Preservation Critical Issues Fund. A deliberate delay in the development of the analysis was encouraged because the conservatives believed that policy decisions should be made by the Task Force before the report was presented to the general membership. In order to compensate for this lack of fiscal information, the preservation office arranged to have the Department of Revenue testify at the first hearing to provide the Task Force with basic familiarity about the effects of Measure 5. The central problem with this approach, however, was a lack of knowledge about program performance to integrate with the expected impact of the tax initiative.

**Timeliness of the OAR changes** - In addition to the lack of fiscal information, at the same time the Task Force had to contend with the aftermath of an emotionally-charged public hearing on the administrative rule changes to the current program. Several members had attended the hearing, and some discussion was held about the narrow focus of public benefit being dependent on open-house visitation and other rule changes. In response, the preservation office affirmed that the Task Force goal was to examine the statute as a whole and not to be concerned with rule change items.

Nevertheless, both Task Force and rule changes occurring at the same time was distracting and confusing to members and to those who testified. Members wondered why rule changes had

to be made in 1992, when they would change again if the Task Force recommendations were implemented. Having been assured that a new statute would require new rules, the members voted five to three to write to the SHPO requesting a moratorium on rule changes until the members had completed their work.<sup>37</sup> This request was subsequently denied.

Changes to the current rules were intended to occur concurrently with the Task Force investigation. This was a political decision designed to respond to current problems, while at the same time insuring recommendations that future special assessment legislation would be written to prevent a recurrence of these same problems. There was also a concern that with the sunseting of the legislation and the confusion surrounding the impact of Measure 5, any decision to renew the benefit should come as the result of a thorough investigation of the current provisions of the program.

A third, relatively minor, element was injected into the process when the Department of Revenue repealed its historic property reappraisal rule, effective December 1991.

**Composition of Task Force** - The composition of the Task Force was intended to be representative of various regional and interest group positions on preservation issues that had been revealed throughout the state. Members with expertise were chosen to represent Oregon's historic resources, rural development, downtown business development, legal system, architecture and the special tax assessment program.

An effort was made to achieve a balance between those who supported the program and those who believed changes to the program were needed. However, the choices for membership centered on people who supported some sort of financial incentive for preservation without much representation from a larger population, which would have helped to alleviate the perception of conflict-of-interest.

Of particular importance was the exclusion of an economist or expert in public finance who would have been able to contribute insight on program limitations and also, hopefully, the perspective of someone removed from the somewhat cloistered world of preservation.

As I noted earlier, the particular composition of people selected for the Task Force may have had an adverse impact on the process that could have been minimized by the choice of other representatives.

In addition, I would have recommended that a chair be chosen who was knowledgeable in NGT and was a non-voting member with no "interest" in the proceedings other than to structure and facilitate the process. It was too much to expect the chair to be a voting member with an interest in the outcome of the proceedings, and a need to take in all the information to reach a decision, and still control and direct the group process.

**Response to public concerns** - The Task Force initially responded to public sentiments by crafting a balance of

recommendations that answered both the favorable testimony - for example, to keep the benefit and eliminate the open-house requirements - and the unfavorable testimony - for example, tightening eligibility by restricting to primary and secondary properties, requirement of a rehabilitation or maintenance plan and indexing of the frozen values.

The issue of conflict-of-interest was disposed of, in the Task Force's mind, with the statements filed by the members and the conflict-of-interest recommendation, which was later withdrawn. However, the composition of the members was such that the Task Force did not appear to be a group truly representative of the larger population.

The responsiveness of the members came into serious difficulty with the revelations from the GFRC analysis, which resulted in the removal of important program limits placed earlier.

Hypothesizing on a public reaction to the final recommendations, I believe the responsiveness of the Task Force will be seen by critics as nearly minimal for silencing negative commentary: the open house requirement - seen by some as the primary "public benefit" - was removed. There was some tightening of eligibility to only primary and secondary properties, but there was no restriction on an owner re-applying for additional enrollment in the program during the fifteen years as long as back taxes plus 1% interest was paid. The participants would now be required to file a preservation plan, however, base property values would remain frozen for a

full fifteen years instead of being indexed to the current market value, which would allow some participants to continue using the program as a hedge against increased property taxes.

The Task Force knew at the final session that indexing on top of Measure 5 would produce a strong disincentive for commercial properties to use the program, and that it would be very difficult and expensive administratively to split the benefit into commercial and residential. In addition, the members were divided in their decision on this issue.

The important question is whether the Legislature will listen primarily to public pressure or will take the time to evaluate the rationale behind the Task Force recommendations.

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## CHAPTER VII.

### SUMMARY AND COMMENTARY

#### Task Force Process

The modified consensus method used by the Task Force for group decision-making was not effective in helping the members evaluate the best alternatives for proposed changes to a renewed statute. As Chapter 6 revealed, reasons for this ineffectiveness could be attributed to the particular composition of the members, which seemed to fuel argumentative positions taken by those with strongly opposing viewpoints. Other contributing factors included a lack of timely fiscal information and the confusion of the concurrent OAR hearings. A facilitator, using nominal group techniques, was finally able to assist the members in their goal to accomplish a review of the current statute, along with discussion and recommendations of proposed changes. When the facilitator left, the group gradually drifted back into a non-productive polarization on the key issue of indexing. This caused a reversal in the recommendation for indexing that had appeared in the draft copy of the Task Force report.

In spite of the dysfunctional membership composition and process, the Task Force is to be commended for a thorough and insightful examination of the complex issues surrounding this program. In my opinion, all of the findings and recommendations in the report are valid and well-reasoned, however, I believe that indexing should have been retained as a concession to the economic problems being faced by local governments. I am also concerned that public response to the final report may not be as positive as desired by the SHPO. The increase in controls recommended by the Task Force may be seen as minimal concessions to pressures for change, compared to other changes that were not recommended: the lack of indexing, the program period remaining at fifteen years and the visitation requirement eliminated.

#### Oregon Cultural and Economic Patterns

Oregon is demographically a conservative state, with a liberal view in some regions, that reluctantly accepts changes to its economy and culture. Most of the state has been rural and agrarian since it was settled by pioneers who traveled west to acquire land not bound by governmental interference or societal restrictions, practices that were beginning to occur in the eastern half of the country. The incentive in coming to Oregon was free land and an opportunity to control one's economic destiny.

In Oregon, the current upheaval in the state's timber industry is an example of residents' response not only to the

decline of lumber jobs and the protection of endangered species, but to the loss of economic control they once held over the land. As much as anything, it is a protest against changing the beliefs that have formed the basis of the population's values since the state was settled. The implication for historic preservation is that residents will be inclined to fight hard to retain what they perceive as further infringements of their property rights.

Along with this determination to remain masters in their own houses, many Oregonians have also exhibited a deep concern for insuring protection of the state's relatively pristine environment, priding themselves on the clean air and water, beautiful scenery and recreational opportunities available. This tenuous coexistence sometimes stymies the resolution of pressing economic and regulatory problems. However, as often as residents may squabble over logging versus ecology or historic resources they have united against a development-at-any-cost attitude.

Oregon has one of the most comprehensive land use planning laws in this country. Nineteen state goals ranging from citizen involvement to ocean resources lay out requirements for local adoption of comprehensive plans, which are then approved by the Land Conservation and Development Commission and overseen by the Department of Land Conservation and Development. Special assessment has been used by some owners as compensation for fulfilling requirements under Goal 5 of this law.

To the rugged, independent Oregonian (native or transplant), state and federal government has been seen as wasteful, obstructive and overly large. One major effort to control property tax was Ballot Measure 5, the property tax limitation initiative; another has been the refusal of citizens to approve a state sales tax. Nevertheless, I believe that the majority of Oregonians know that adjustments must be made in their beliefs in order to manage the economic and cultural changes that are rushing in on the state from a variety of sources. These include the transition from timber dollars to other industries to fuel the economy, the influx of retirement populations while younger people leave to seek employment elsewhere, the growth in tourism and the impacts of the property tax cap. Along with these changes, or because of them, have come pressures on communities in many regions for increases to services that historically have been stable.

Political Viewpoint:

Oregon currently has an unbalanced tax structure. While Measure 5 places controls on property taxation, the existing system provides few alternative means of paying for the growing needs of Oregon's communities or even keeping up with the previous requirements. It is expected that because of the property tax cap, levels of services from the public sector will decline unless lost revenues can be recovered or new sources of funding are developed. Older populations may need more, not fewer services. Increased numbers of residents may

require additional funds spent either on new expensive infrastructure or on the rehabilitation of existing systems, and public schools must have the ability to improve the quality of education.

It is within this context that the special assessment for historic properties must be placed. The special assessment program has become a public issue with all the side effects that create difficulties, such as involving people with little or no historic expertise, who may not place much value on preservation but who are citizens effected by the public funds spent on the incentive program. If a group of concerned persons desire to retain this program they must demonstrate to the Legislature how the program will continue to help define the character of the state, and at the same time be a vital part of the economic changeover that is occurring. The way to do this is to broaden the support base for the program with a coalition of interest groups that understand that short-term benefits can help offset the loss of current dollars while municipalities are waiting for long-term benefits to take effect. This support base must then intervene in the legislative process on behalf of the program. This incentive, like every other entitlement program, must be justified on the basis of its return to society as a whole. I believe special assessment can and must withstand such scrutiny if it is to survive.

### Political Processes:

In order to convince the Legislature to renew this incentive in accordance with Task Force recommendations, it is useful to understand the political processes involved in making public policy. The definition of politics is: an interplay between entities to lead one another through persuasion, influence and negotiation. Politicians analyze proposals based on the following guidelines: (1) Is there a minimal winning coalition involved in the project? (2) Which interests are represented by each of the actors in the project? (3) How do these interests make their money? Each interest has a definition of the problem, a perspective and goals. The answers to these questions determine the issue's power sources, which are then ranked as high (3), medium (2) and low (1).

This leads to Rule #1: The most highly-ranked interest receives the outcome it desires most often, and it probably wants more than one thing. Rule #2: Everybody will get something. There are no absolute losers in the process except the unorganized or small single interests, who may possibly be overlooked. The Legislature will probably find a solution which allows the most powerful interest to achieve its objective and everyone else to get something of what they want. In order to do this, the entire preservation incentive issue could be manipulated by defining people's interests at the base level and finding ways of expanding those interests

to other areas. Most represented interests will have more than one acceptable alternative solution.

Another political technique used is to trade off symbols for material goals, such as written or verbal rewards for a slower rate of gain. When opposing forces surround an issue the politicians may become ambiguous about policies. Changes in wording are indicative of this situation; inclusion of the word "may" means there was no agreement reached. Alternatively, politicians may produce agreement on a process, even if the interests can't agree on a policy.

The Legislature tends to be future-oriented, with limited interest in the past. A successful coalition should present different visions of the future for the decision-makers to choose from. Because a policy is a course of action that is directed at some goal, expected outcome and activity to reach that goal should be included. To understand the potential impact of a policy, the program should not compare today to tomorrow. Instead, it should compare what happens tomorrow if nothing is done today versus what happens tomorrow if this statute is renewed. In other words, without the special assessment program what is the future of Oregon's historic properties? Compare this scenario to that which would be expected if the program is continued through renewed legislation. As we don't know what the future will be, it is important to include a probability statement of the likelihood of project goals being achieved.

Politicians usually look first at the risks of the proposed policy, then at the probability for achieving goals and, finally, at the plan for action. They have found by trial and error that this reduces mistakes and increases the chances of success. A two-year time horizon is used for most legislative decision-making. For example, 1989 data was used for 1991 decisions, but would not have been acceptable information for a 1993 decision, depending on the issue.

It is also crucial to understand that politicians are concerned about broad general policies. Knowledge about a single issue is limited by time constraints. They believe everyone involved in an issue has an "interest." This implies that politicians are skeptical and have doubts about who can be trusted for impartiality. Every decision is seen as a gamble against being right or wrong that could return to haunt the legislator in future. Public policy decisions are invariably over-determined; that is, there is more than one correct reason to explain why the decision has been made. Analytical materials are often not very helpful and uncertainties about the future warn politicians to avoid anything that has a potential catastrophe attached to it, even a low probability. In this event, policy makers proceed as if a threat is real by avoiding irreversible change or commitment and building in flexibility.

### Building Support:

The Task Force report demonstrates past performance of the program and the potential benefits that a renewed statute can bring to Oregon. However, I believe the report is a starting point not an end. Using the political cues discussed previously, a diverse network of citizen support and advocacy for the benefit should be developed to insure enough demand for renewal of the program. To encourage this, the preservation staff could provide support for Task Force members to interpret and publicize the report wherever possible by providing positive media attention and enlisting the help of CLGs, county councils of government and SACHP members to discuss the recommendations with local advocacy groups and distribute a summary of the Task Force report. The modified consensus process used by the Task Force may not be as effective in managing temporary work groups with diverse composition. I recommend that if such groups are formed to promote renewal of the program, nominal group technique (NGT) be used for its structure and high generation of ideas.

The public rewards from special assessment are numerous and widely dispersed throughout the state. Other supplementary data from communities that have revitalized themselves through this program could also be included. The following list of public benefits have been discussed or quantified in the Task Force report. Although by no means exhaustive, it does show the variety of effects stemming from the program:

- demolition of downtown historic cores prevented during cyclic real estate swings and property recessions;
- keeps historic residential and commercial neighborhoods intact;
- provides compensation to property owners in compliance with Goal 5;
- provides one-time economic boosts through the construction industry: materials, fees, wages and taxes;
- provides long-term community and state benefits through business development, increased fees and licenses, increased employment and payroll taxes;
- increases quantity and quality of rehabilitated rental space;
- increases income from tourism and film production - another continuing source of state and local revenues;
- produces conservation of energy, raw materials and workmanship that cannot be replaced;
- provides savings to the public from use of existing infrastructure;
- produces added value in projected increased revenues of properties upon return to the tax rolls;
- effectiveness of the program is magnified in combination with local and federal loan and grant programs;
- fulfills social needs by contributing housing units for low-income and senior citizens;

-- enhances livability of older neighborhoods:  
increases safety, stability of ownership, neighborhood  
cleanup, increases property values within rehabilitated areas  
and bordering developments, improves community commitment and  
sense of place; and

-- educational benefit is received by citizens in  
being able to view and appreciate the state's visual history  
accurately maintained or restored according to professional  
standard, within the context of historical significance in  
Oregon.

Some of the most important benefits of special  
assessment are non-market goods, which cannot be priced  
through a market mechanism. There are tools to price non-  
market goods such as surveys, costs of production, costs of  
real estate, wage markets, jury awards and social decisions.  
Some of these were used by the consultant in the GFRC report.  
In cost/benefit analysis some of these benefits would not be  
counted: sunk costs, or those investments that occurred prior  
to the current decision, transfers of revenues from one sector  
to another, any double-counting of both an intermediate and  
final effect and externalities, which are the impacts of a  
decision felt by those outside the scope of the decision.  
What is counted are the marginal changes in either costs or  
benefits. Therefore, it is important to demonstrate increases  
in benefits derived from the program. There is also a wage  
differential that is tied to environmental amenities because  
quality of life and health are involved. People value

environmental amenities and the location of property. The implication for public policy is that Oregon needs to preserve its environment because it acts as a financial incentive to wage earners who value this benefit enough to accept less compensation to live here.

Some members of the Task Force were concerned with what they believed to be excessive costs imposed on others from the program. They wanted to control this by either limiting participation through a cap or reducing the benefit through indexing. Because the distribution of benefits is filled with value judgments, some of the group felt that many people pay the cost while only a few receive the benefit. This opinion reflected those of a critical minority that had focused media attention on abuses in Multnomah County.

Although Measure 5 has reduced the financial return on the incentive to property owners who do not produce substantial rehabilitation, the public benefits of the program can continue to increase. In addition to the dollars received by the community from owner investment in caring for the property, income from film production and tourism are thriving, and this will help sustain communities who invest in the incentive program until those properties receiving the benefit are restored to the tax rolls with their added values. At that time, Oregon will have both retained its character-defining properties and enjoyed an economic gain. Demonstrating this dual goal to the Legislature will show

reduced risk and enhance the probability of policy success from renewal of the statute.

Examples - Albany and Baker City:

Albany and Baker City are two communities where the special assessment program is credited with providing a crucial financial incentive to commercial and residential property owners. The success of Albany's downtown core revitalization comes largely from the increase in rehabilitated square footage and the "Upper Story Renovations Program," both of which depend on the incentive for gap financing. Sixteen buildings in the commercial center are participating in special assessment, generating multiplier effects throughout the local economy. In 1989, 640 jobs resulted from the renewal efforts, most of which were not seasonal but represented growth in year-round visitor business. Two highly successful residential historic districts have resulted from deteriorated older neighborhoods that were once being converted to multi-family housing. Because of special assessment the owners were able to purchase and rehabilitate not only their own homes but clean up their neighborhoods as well, which has inspired improvements to adjacent properties not participating in the program. The key to Albany's success has been a three-way commitment to urban and suburban renewal between the city, businesses and residents. The CLG has combined economic improvement and

neighborhood revitalization for joint benefits that continue to grow.<sup>1</sup>

Baker City has made a commitment to restore all of its twenty-five buildings in the downtown core, which form the Baker Historic District. It has made an auspicious beginning with the Baker Hotel, a ten-story 1929 structure listed on the National Register. The manager in charge of the hotel's restoration confirmed that the project is successful because of the patience and dedication of the developer, city officials, local businesses and residents, in addition to the availability of the preservation incentive. The restored hotel will be used for needed low-income senior housing, and is a pilot project for the balance of the buildings to be rehabilitated. It has provided positive inspiration for the community, and the developer is expected to renovate an additional building in the district.<sup>2</sup>

The economic development plan for Baker City is known as the "Destination Downtown" program. Brian Cole, Director of the program, wrote:

"This program is providing a series of grant/loan awards to business/building owners within the central business district...the City has received a \$100,000 loan from the National Trust for Historic Preservation. We have matched this 1:1 from local banks. In addition, the Oregon Regional Strategies program has provided a \$200,000 grant...therefore, we have \$400,000 to establish a 50% grant/50% loan program...we will have 25 historic rehabilitation projects completed over the next two years!"<sup>3</sup>

The program is linked to the National Historic Oregon Trail Interpretive Center. This is a \$10 million building

owned by the Bureau of Land Management that houses permanent exhibits commemorating the history of the 150-year old trail. 200,000 visitors were expected to visit Baker City and the Center between 1992 and 1994, however, by May of this year 142,000 had already been through the exhibit. In addition, the California/Oregon Trail Association convention will be held in Baker City in 1993 to celebrate this historic event.

State V. Regional/Local Control:

As I noted earlier, Measure 5 has made the preservation incentive competitive in the public expenditure arena. Because of this situation, the general populace are now the sometimes unwilling sponsors of this policy. A number of these people want a say in how the funds are allocated. Added to this are the Goal 5 requirements, however, there is currently no matching incentive program to offer to people who must comply with local restrictions. In its investigation the Task Force found a need for local incentives underwritten by the state that was echoed in the testimony from Lake Oswego. The historic protection program in that community does not have any financial inducement to assure cooperation except for special assessment, which does not serve all the locally landmarked properties.<sup>4</sup>

This conflict between community and individual values is not unique to Oregon. The pervasive concept of private property is that the limits of an individual's property extend as high and as deep as the property lines themselves.

Government is constantly involved in balancing the economics of the community against the individual property owner's needs, which could be partially alleviated through local incentives or a local control option under the special assessment benefit.<sup>5</sup>

One idea for a remodeled program would be to empower neighborhood preservation through the CLGs by enabling them to preserve "focus" buildings and important places that symbolize a neighborhood; then allowing the CLGs to use the balance of the funds to find ways to keep the residents in the neighborhood by creating daycare, job training, transportation to jobs and essential services. This would be exclusionary as far as selecting properties to preserve, but it would broaden the outreach of the program to serve the social needs of the neighborhood and produce a strong sense of place and commitment. An alternative suggestion is for a second level of incentive that would stimulate "practical" rehabilitations for the adaptive use of structures in economically depressed communities.

Everybody's idea of what to preserve is different because it is based on personal values. Related to this is a public perception of the marginal quality of some buildings under special assessment because they are not the best examples of historic structures. Combining this perception with the cost of the program under Measure 5 has brought societal resistance to paying for these types of structures at a state level, which was also expressed by conservative Task

Force members. If these properties were listed not individually but as part of local districts, where they have meaning and importance to that particular area, there would be greater support for subsidization.

These buildings have no prospect of getting on the National Register individually, but could be acceptable within the context of local landmark districts, perhaps for criteria other than architecture. Local districts currently bring restrictions with no benefits, therefore, owners apply to the National Register to be eligible for financial incentives. However, real protection for properties comes under local landmark status and city ordinances, not from the National Register. The controversy is why state-sponsored incentives have to be exclusively tied to the National Register without also being available to properties which are listed solely in local landmark districts. The point is that some communities want the option of supporting or rejecting incentives for local properties because they now have to absorb the cost of subsidizing these structures.

This issue has focused attention on two factors: eligibility criteria and rehabilitation standards. The Task Force discussed whether program participation could be limited by a change from the National Register to another form of eligibility criteria, such as a state register or local historic resource inventories. The majority agreed that creation of a new state register would be administratively wasteful and expensive, while state files of local inventories

are incomplete because a number of communities have not yet satisfied Goal 5 requirements.

Currently, and in the foreseeable future, listing in the National Register remains the key to being eligible for state and federal benefits. Given the current economic situation and legal challenges to Goal 5, perhaps it is time to emphasize the honorary aspect of the National Register and stop tying it to state financial benefits, or expand eligibility to include local landmark designation as an acceptable alternative.

The program's rules and guidelines for rehabilitation are taken from the Secretary of the Interior's Standards for Rehabilitation. These Standards were crafted to control the specific qualities, uses, design features and materials of European-American historic rehabilitations. Of course, the Standards are based on "traditional" values, and appear to be inflexible. Some preservationists believe it is important to have a more flexible set of guidelines for practical use in the community. The Secretary's Standards have the same ten rules for all types of structures. These rigid Standards tend to conflict with the mandate of the National Park Service, overseer of the National Register and the Standards, to encourage acceptance of multicultural diversity by approving marginally-perceived properties as historically significant.

It is estimated that by the year 2,000, one-third of the people in the country will be minorities, with a projected growth to fifty percent by the end of the century. The ethnic

background and culture of communities will be very different from what they are today, producing lasting effects on public policy. Some minorities do not have buildings or structures to restore, and cultures may be transient before settling.

One of the arguments against local option is the potential loss of control over the quality and accuracy of historic rehabilitations. A response to this concern would be for the SHPO to encourage communities to increase special development districts, strengthen preservation ordinances and include design guidelines.

As this change is occurring, Oregon needs to be developing a strong community-level program of preservation education that links historic resources with cultural values. Many people are unaware of the extent of their community or state resources, or believe that if a property is worth anything it is already protected, and it is therefore permissible to demolish everything else.

Ultimately, the success of this benefit, or any other preservation incentive, is dependent on convincing Oregonians that saving historic resources is a worthy public expense. Financial compensation helps to offset development pressures as long as the state persists in putting a "highest and best use" value on the land instead of "current use" - which may be the best long-term solution for protecting the public investment in commercial properties once they have come off the program. Compensation also mollifies those who feel unfairly restricted under the land use laws. Otherwise, we

may all be viewing buildings as those who are disabled now do: by seeing video tapes and fragments put together with drawings and plaques, because the structures no longer exist.

#### NOTES

1. Public testimony presented at the Albany Public Hearing, 11-19-91.
2. Telephone interview by author with Carlene Collins, Manager of historic renovation of the Baker City Hotel, 9-11-92.
3. Cole, Brian D. Letter to author from Director of Economic Development, City & County of Baker, Baker City, Oregon, 9-16-92.
4. Clark, Catherine. Letter from Associate Planner, City of Lake Oswego to James Hamrick, DSHPO, Salem, Oregon, 8-3-92.
5. Ideas presented in this section are a composite of informal discussion that occurred at the Preservation Ethics Forum on May 9, 1992, sponsored by the Associated Students of Historic Preservation, University of Oregon.

## APPENDIX A.

### GLOSSARY

-- **Certified Local Government (CLG):** A local government which has established its own historic preservation commission and a historic preservation program which meets state and federal standards. As a CLG, the local government can participate directly in the National Historic Preservation Act program of financial and technical assistance.

-- **Department of Revenue Rule:** Historic property valuation regulations for county assessors, OAR 150.358.485. Changes made to property reappraisal procedure in 1990 were repealed effective December 31, 1991.

-- **Goal 5:** Goal 5 is the fifth of nineteen statewide land use planning goals, and is administered by the Department of Land Conservation and Development (DLCD) from policies developed by the Land Conservation and Development Commission (LCDC). Appeals are conducted by the Land Use Board of Appeals (LUBA). Goal 5 mandates the identification, evaluation and protection by local governments of identified historic (cultural) resources. Historic resources include all types of individual or grouped structures, archaeological sites, landscapes, objects, and linear features such as trails, roads or canals.

-- **Historic District:** A geographically definable area, urban or rural, possessing a significant concentration, linkage or

continuity of historic sites, structures, or objects unified by past events or aesthetically by plan or physical developments or by similarity of human use. A district may also be composed of individual elements that are separated geographically but are linked by association or history.

-- **Historic Preservation:** The identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, or culture.

-- **Historic Property:** Real property that is currently listed or considered eligible for listing in the National Register of Historic Places (see below).

-- **Historic Preservation Plan:** A brief report to the State Historic Preservation Office outlining the proposed treatment of the property's historic features during the fifteen-year special assessment period. Each plan should describe the nature of rehabilitation and/or maintenance and/or reconstruction to be undertaken by the owner.

-- **Indexing:** The practice of adjusting the assessed value of real property based on local market studies which indicate area-wide percentage changes in value, rather than physically inspecting and reassessing the property.

-- **Investment Tax Credit (ITC):** A 20% federal income tax credit for the substantial rehabilitation of buildings listed in the National Register of Historic Places for commercial, industrial and rental purposes. Rehabilitation must be in accordance with the Secretary of the Interior's Standards for Rehabilitation. The Economic Recovery Tax Act of 1981 originally set the credit at 25%, but it was reduced to 20% by the Tax Reform Act of 1986, which also instituted a passive loss restriction. The 1986 amendments have reduced the attractiveness of the program.

-- **Maintenance:** The act or process of applying measures to sustain the original existing form, integrity, and material of a building or structure. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials. The act or process of applying measures designed to affect the physical condition of a property of defending or guarding it from danger or injury. In the case of historic property and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment.

-- **National Historic Preservation Act of 1966 (NHPA):** This Act authorizes the Secretary of the Interior to expand and maintain a National Register of districts, sites, buildings, structures, and objects of local, state, and national significance and to grant funds to states for the purpose of undertaking comprehensive statewide plans for historic

preservation. Requires governors to appoint State Historic Preservation Officers to administer historic preservation programs implementing the Act.

The Act also establishes a program of matching grants-in-aid to the states for the survey and inventory, preservation, acquisition, and development of National Register properties and provides funding to the National Trust for Historic Preservation to implement its programs.

Title II of the Act establishes the Advisory Council on Historic Preservation to advise the President and the Congress on matters relating to historic preservation and to comment upon federally licensed and assisted undertakings affecting cultural resources.

-- **National Register of Historic Places:** Established by the Secretary of the Interior under provisions of the National Historic Preservation Act of 1966, the National Register is the official list of the nation's cultural properties worthy of preservation. It is part of a national policy to coordinate and support public and private efforts to identify, evaluate, and protect our cultural resources. Eligible properties include districts, sites, buildings, structures, and objects of local, state, or national significance in American history, architecture, archaeology, or culture.

To be listed in the National Register, a property must meet the following criteria:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design setting, materials, workmanship, and association, and:

- That are associated with events that have made significant contributions to the broad patterns of our history; or
- That are associated with the lives of persons significant in our past; or
- 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
- that have yielded, or may be likely to yield, information important to prehistory or history.

**Listing in the National Register:**

- Makes private property owners eligible for federal grants-in-aid for preservation, administered by the states as part of their historic preservation programs;
- Provides limited protection by requiring comment from the Advisory Council on Historic Preservation, an independent executive agency, on the effects of federally assisted projects on listed resources;
- Makes owners who rehabilitate certified historic properties for income-producing purposes eligible for federal tax benefits.

-- **Oregon Administrative Rule (OAR):** Requirements for participation contained in 736-50-010-100 that implement the Special Tax Assessment Program for Historic Properties. These rules for the current statute were amended in May 1992.

-- **Rehabilitation:** The act or process of returning a property to a state of utility through repair or alteration which makes

possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, or structural values.

-- **Restoration:** The process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by replacement of missing earlier work.

-- **Secretary of the Interior's Standards for Rehabilitation:** Guidelines for the appropriateness of proposed project work on National Register listed properties. The standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of the buildings. They also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. The Secretary's Standards are codified in 36 CFR 67.

-- **Seismic upgrade:** Because of earthquake danger to property, Oregon has been upgraded on a seismic impact measurement scale from Zone 2 to Zone 3 status. This upgrade affects building codes and could have a negative impact on historic structures. Senate Bill 309 established the Seismic Safety Policy Advisory Commission and authorized the administrator of the Building Codes Agency to adopt regulations to require correction of hazards created in existing buildings as a result of

earthquakes. The Bill also provides for entry and authority to declare such damaged buildings to be public nuisances.

-- **Special Assessment:** A property tax incentive adopted in 1975 to promote the preservation of National Register listed historic properties in Oregon (ORS 358,475-.565). special assessments are used to promote the protection of other important resources regulated by the Department of Land Conservation and Development (DLCD), such as timber and farm land. Special assessment for historic property holds constant, or freezes, the property's assessed value for fifteen years. During that period, the owners must maintain the property according to guidelines adopted by the State Historic Preservation Officer (SHPO). Owners are also required to open their property to the public for sightseeing at least one day per year.

-- **State Advisory Committee on Historic Preservation (SACHP):** A nine-member committee established by Oregon Statute 358.622, pursuant to the National Historic Preservation Act of 1966. The committee reviews and makes recommendations concerning nominations from Oregon to the National Register of Historic Places. The SACHP also reviews applications to the special assessment program, and makes recommendations concerning certification to the State Historic Preservation Officer.

-- **State Historic Preservation Office:** A federally-mandated historic preservation program which, in Oregon, is located

within the State Parks and Recreation Department.

Administrative authority resides in the Director of the Parks and Recreation Department, who also serves as the State Historic Preservation Officer. The SHPO staff is in charge of the survey, registration, and protection of Oregon's historic resources. The office's responsibilities include:

- Survey and inventory of cultural resources, including buildings, structures, sites and objects;
- Nominating properties to the National Register of Historic Places;
- Administration of Department of the Interior matching grants-in-aid for survey and planning and acquisition and development projects;
- Review of federally funded or licensed projects for their effect on cultural resources, including timber sales, dams, highways, all HUD projects, farmer's home loans, etc.;
- Providing technical assistance and consultation to non-profit organizations and private citizens on successful methods of preservation;
- Certifying properties and rehabilitations for the federal tax incentives available for rehabilitating income-producing historic buildings; and
- Certifying properties for the Oregon Special Assessment of Historic Properties Program.

**APPENDIX B.****CURRENT STATUTE****ORS 358.475 - .545****SPECIAL ASSESSMENT OF  
HISTORIC PROPERTY****1991****CLASSIFICATION OF HISTORIC  
PROPERTY**

**358.475 Policy.** The Legislative Assembly hereby declares that it is in the best interest of the state to maintain and preserve properties of Oregon historical significance. [1975 c.514 §1]

**358.480 Definitions for ORS 358.475 to 358.545.** As used in ORS 358.475 to 358.545, unless the context requires otherwise:

(1) "Governing body" means the city or county legislative body having jurisdiction over the property for which a limited assessment may be applied for under ORS 358.475 to 358.545.

(2) "Historic property" means real property that is currently listed in the National Register of Historic Places, established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665) or if the National Register of Historic Places ceases accepting nominations, the property is approved for listing on an Oregon register of historic places, that is open to the public for sight-seeing at least one day in each calendar year in accordance with rules adopted by the state historic preservation officer and that meets the minimum standards of maintenance established by rule of the state historic preservation officer.

(3) "Owner" includes a purchaser under recorded instrument of sale. [1975 c.514 §2; 1983 c.720 §1]

**358.485 Application for classification and assessment as historic property.** (1) An owner of historic property desiring classification and assessment under ORS 358.475 to 358.545 shall make application to the county assessor upon forms approved by the Department of Revenue and consent in writing to the viewing of the property by the state historic preservation officer and the State Advisory Committee on Historic Preservation. Applications shall be made prior to December 31, 1975, for classification for the assessment year commencing January 1, 1976, and thereafter applications to the county assessor shall be made during the calendar year preceding the first assessment year for which classification is requested, except that no application shall be made under this subsection after December 31, 1983. Application for classification shall be granted only for those 15 consecutive assessment years immediately following the calendar year in which the application is made.

(2) On and after January 1, 1984, an owner of historic property desiring classification and assessment under ORS 358.475 to 358.545 for the property shall make application to the state historic preservation officer on forms approved by the state historic preservation officer. The forms shall include or be accompanied by the written consent of the owner to the viewing of the property by the state historic preservation officer and by the State Advisory Committee on Historic Preservation. Except as provided in subsection (3) of this section, applications shall

be made on or before December 31, 1984, for classification for the assessment year commencing January 1, 1985, and thereafter applications shall be made during the calendar year preceding the first assessment year for which classification is requested. The state historic preservation officer shall immediately send a copy of any application to the appropriate county assessor and governing body. Applications for classification shall be granted only for those 15 consecutive assessment years immediately following the calendar year in which the application is made.

(3) An owner may make preliminary application for classification of property as historic upon approval by the State Advisory Committee on Historic Preservation of the nomination of the property for listing on the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the nomination of the property for listing on an Oregon register of historic places. The preliminary application shall be considered an application made or received for purposes of subsection (2) of this section, ORS 358.490 or 358.495, or other law, if the property is actually listed in the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the property is approved for listing on an Oregon register of historic places by March 15 of the year following preliminary application. If the property is not listed on the National Register of Historic Places or, if the National Register of Historic Places ceases accepting nominations, the property is not approved for listing on an Oregon register of historic places by March 15 of the year following preliminary application, then the preliminary application shall be considered an application made or received for purposes of subsection (2) of this section, ORS 358.490, 358.495 or other law, on the date the property is actually listed.

(4) Immediately upon receipt of a copy of the application under subsection (2) of this section, the county assessor shall review the application for accuracy and completeness of description and other matters within the expertise of the county assessor and shall make recommendations regarding the classification to the state historic preservation officer.

(5) Immediately upon receipt of a copy of the application under subsection (2) of this section, the governing body shall review the application for matters relating to public benefit and shall make recommendations regarding the classification to the state historic preservation officer.

(6) By making application for classification and assessment under ORS 358.475 to 358.545, the owner consents that the state

historic preservation officer have access to the property for inspection at reasonable times to insure that the terms of the national register or other federal or state laws or requirements are being met.

(7) The application for classification and assessment under ORS 358.475 to 358.545 shall not be processed unless accompanied by a nonrefundable fee of one-tenth of one percent of the assessed value of the property for the year in which application is made. The fee shall be deposited in the State Parks and Recreation Department Fund for use by the State Parks and Recreation Director or for transfer to the Oregon Property Management Account established under ORS 358.680 to 358.690, upon the advice of the State Advisory Committee on Historic Preservation. [1975 c.514 §3; 1983 c.720 §3; 1989 c.904 §54]

**Note:** Section 15, chapter 514, Oregon Laws 1975, provides:

**Sec. 1.** Section 15, chapter 514, Oregon Laws 1975, as amended by section 2, chapter 346, Oregon Laws 1979, is further amended to read:

**Sec. 15.** Notwithstanding ORS 358.485, no application may be made under ORS 358.475 to 358.545 after December 31, 1993. [1975 c.514 §15; 1979 c.346 §2; 1985 c.321 §1]

**358.490 Referral of application to state historic preservation officer; review, approval in whole or part; withdrawal.** (1) Within 10 days after the filing of an application filed before January 1, 1984, the county assessor shall refer each application for classification to the state historic preservation officer. Following referral, or after an application is filed under ORS 358.485 (2) or (3), the State Advisory Committee on Historic Preservation shall review the application and may view the premises. The state historic preservation officer shall not disapprove the application solely because of the potential loss of revenue that may result from granting the application if the state historic preservation officer finds that the property is historic property.

(2) During the review process, the state historic preservation officer shall consider the county assessor's and governing body's recommendations submitted under ORS 358.485 (4) and (5).

(3) The state historic preservation officer may approve the application with respect to only part of the property which is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the application. [1975 c.514 §4; 1983 c.720 §4]

**358.495 Notice of approval or disapproval; effect of approval; request for hearing.** (1) Immediately following approval or disapproval of an application under ORS 358.490, the state historic preservation offi-

cer shall notify the county assessor and the applicant which shall in no event be later than April 1 of the year following the year that the application is considered received under ORS 358.485. An application not denied by April 1 shall be deemed approved, and the property which is the subject of the application shall be considered to be historic property which qualifies under ORS 358.475 to 358.545.

(2) When the state historic preservation officer determines that the historic property qualifies under ORS 358.475 to 358.545, the state historic preservation officer shall certify that fact in writing and shall file a copy of the certificate with the county assessor within 10 days. The certificate shall state the facts upon which the approval was based. The county assessor, as to any such historic property, shall assess on the basis provided in ORS 358.505, and each year the historic property is classified and so assessed shall also enter on the assessment and tax roll that the property is being specially assessed as historic property and is subject to potential additional taxes as provided in ORS 358.525 by adding the notation "historic property (potential additional tax)."

(3) Any owner or county assessor affected by a determination of the state historic preservation officer made under ORS 358.475 to 358.565 may request a contested case hearing before the state historic preservation officer according to the provisions of ORS 183.310 to 183.550. [1975 c.514 §5; 1983 c.720 §5]

358.502 [1957 c.196 §1; repealed by 1957 c.196 §10]

358.504 [1957 c.196 §3; repealed by 1957 c.196 §10]

**358.505 Entitlement of property to special assessment.** (1) For purposes of ORS 308.232, the county assessor shall, for the 15 consecutive assessment years elected under ORS 358.485, value property classified as historic property at the assessed value of the property at the time application under ORS 358.485 was made.

(2) The entitlement of property to the special assessment provisions of this section shall be determined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that year shall continue as provided in this section.

(3) Real market value, as defined and determined under ORS 308.205 and 308.235, shall be determined for property classified as historic property by the county assessor each year. The real market value so determined for any year shall be subject to appeal to the county board of equalization within the time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the Department of Revenue, to the Oregon Tax Court and to the Oregon Supreme Court

within the time and in the manner provided for appeals of value determination for purposes of ad valorem property taxation. [1975 c.514 §6; 1981 c.804 §97; 1983 c.720 §6; 1985 c.565 §63; 1991 c.459 §325]

358.506 [1957 c.196 §4; repealed by 1957 c.196 §10]

358.508 [1957 c.196 §5; repealed by 1957 c.196 §10]

**358.509 Review of continued qualification of property by state historic preservation officer.** If the county assessor or State Advisory Committee on Historic Preservation has reason to believe that property classified as historic property is not being maintained or preserved as required under the National Historic Preservation Act of 1966 (P.L. 89-665) or as required under rules established by the state historic preservation officer or otherwise no longer qualifies for classification and special assessment as historic property, the county assessor or State Advisory Committee on Historic Preservation shall request the state historic preservation officer to determine if the property continues to qualify. The request shall be in writing. Upon receipt of the request, the state historic preservation officer shall inspect the property and may take whatever steps are necessary to determine if the property continues to qualify for special assessment including a request for a report under ORS 358.535. The state historic preservation officer shall notify the county assessor of the determination made pursuant to the request of the assessor within 120 days after the request is received. A determination by the state historic preservation officer that the property no longer qualifies shall constitute a discovery described in ORS 358.515 (1)(c). [1979 c.346 §4; 1983 c.720 §7]

358.510 [Repealed by 1957 c.196 §2]

358.512 [1957 c.196 §6; repealed by 1957 c.196 §10]

358.514 [1957 c.196 §7; repealed by 1957 c.196 §10]

**358.515 Loss of special assessment; effect of sale or transfer; notice to assessor when property ceases to qualify.** (1) When property has once been classified and assessed as historic property under ORS 358.475 to 358.545, it shall remain so classified and be granted the special assessment provided by ORS 358.505 until the property becomes disqualified for such classification and assessment by:

(a) Written notice by the taxpayer to the assessor to remove the special assessment.

(b) Sale or transfer to an ownership making it exempt from property taxation.

(c) Removal of the special assessment by the assessor upon discovery that the property no longer qualifies as historic property.

(2) The sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to

disqualify the property from the special assessment provided by ORS 358.505 so long as the property continues to qualify as historic property as defined in ORS 358.480.

(3) When, for any reason, the property or any portion thereof ceases to qualify as historic property as defined in ORS 358.480, the owner at the time of change shall notify the assessor and the state historic preservation officer of the change prior to the next July 1 date. [1975 c.514 §7; 1979 c.346 §1; 1983 c.720 §8; 1991 c.459 §326]

358.516 [1957 c.196 §10; repealed by 1957 c.196 §10]

358.520 [Renumbered 390.220]

**358.525 Imposition of amount of taxes when property disqualified; exception.** (1) Except as provided in subsection (4) of this section, whenever property which has received special assessment as historic property under ORS 358.505 thereafter becomes disqualified for such assessment as provided in ORS 358.515, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of real property tax, an amount equal to the difference between the taxes assessed against the property and the taxes that would otherwise have been assessed against the property for each of the last 15 years (or such lesser number of years, corresponding to the years of assessment as historic property applicable to the property) as of July 1 of the tax year for which the property was disqualified for special assessment.

(2) Whenever property that has received special assessment as historic property under ORS 358.505 becomes disqualified for such assessment and either notice required by ORS 358.515 (3) is not given, the assessor shall determine the date that the notice should have been given, shall notify the owner thereof and, notwithstanding ORS 311.220, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, in full payment of all taxes and penalties accruing from the disqualification, the sum of the following:

(a) The difference between the total amount of taxes that would have been due on the property for each year, not to exceed the last 15 years, in which special assessment under ORS 358.505 was in effect for the property (even though erroneously) and the taxes which would have been due had special assessment not been in effect, plus

(b) An additional penalty of 15 percent of the amount in paragraph (a) of this subsection.

(3) Prior to adding to the tax extended against the property on the next general property tax roll of any additional taxes or penalty imposed by subsection (1) or (2) of this section, in the case of disqualification pursuant to ORS 358.515 (1)(c), the assessor shall notify the owner of the property by mail, return receipt requested, of the disqualification.

(4) No additional tax or penalty shall be imposed under subsection (1) or (2) of this section upon the sale or transfer to an ownership making it exempt from property taxation. No additional tax or penalty shall be imposed under subsection (1) or (2) of this section if the historic property is destroyed by fire or act of God.

(5) The amount determined to be due under subsection (1) or (2) of this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(6) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1975 c.514 §8; 1979 c.350 §18; 1983 c.720 §9; 1991 c.459 §327]

358.530 [Repealed by 1959 c.242 §1]

**358.535 Reports from owners; effect of failure to comply.** The state historic preservation officer shall at all times be authorized to demand and receive reports from owners of property classified under ORS 358.475 to 358.545 as to the continued qualification of the same for classification as historic property. If the owner shall fail, after 90 days' written notice by mail, return receipt requested, to comply with such demand, the state historic preservation officer shall immediately notify the assessor and the assessor shall withdraw the property from classification and apply the penalties provided by ORS 358.525. [1975 c.514 §9]

**358.540 Effect of classification and assessment as historic property on exemptions or other special assessments.** (1) Property classified as historic property shall not be entitled to any other exemption or special assessment provided by law.

(2) Nothing in ORS 358.475 to 358.545 shall be construed to deny classification as historic property to property that has been classified as historic one or more times previous to the date of the current application from again being classified as historic and receiving the special assessment granted under ORS 358.475 to 358.545 if:

(a) The property was removed from the previous classification under ORS 358.515 each time that it was so classified; and

(b) Upon removal, the additional taxes, interest and penalties provided under ORS 358.525 were paid in full for each year that the property was so classified and granted the special assessed value under ORS 358.505 prior to its removal. [1975 c.514 §10; 1983 c.720 §10]

**358.543 Effect of new construction on historic classification; notice.** (1) Any additions made that are historically accurate reconstructions of once extant features or necessary for safety or handicapped access or required by safety code requirements may be classified as not being "new construction" by the state historic preservation officer if the state historic preservation officer so determines after request is made by the owner.

(2) If new construction takes place on or after October 15, 1983, with respect to property for which a certificate already has been filed under ORS 358.495 (2), the new construction shall not be considered classified as historic nor shall the new construction receive the special valuation accorded historic property under ORS 358.505. The new construction shall be valued for ad valorem property tax purposes at its real market value and shall be assessed at the percentage of its real market value provided in ORS 308.232.

(3) Any notice required under ORS 308.025 to be sent by a public official or agency with regard to a change in classification to or from historic property classification shall be given by the county assessor rather than the state historic preservation officer.

(4) As used in this section, "new construction" includes, but is not limited to:

(a) An additional new building, structure or other improvement outside the building envelope, including but not limited to a parking area to be or in use for commercial purposes.

(b) An enlargement of the exterior perimeters of an existing building, structure or improvement.

(c) Any story or stories added to an existing building, structure or improvement. [1983 c.720 §§12, 13; 1991 c.459 §329]

**358.545 Rules of state historic preservation officer.** The person designated as state historic preservation officer under ORS 358.565 shall adopt rules, pursuant to ORS 183.310 to 183.550, with regard to the determination of entitlement of historic properties to the special assessment accorded by ORS 358.475 to 358.545. The rules shall:

(1) Encompass requirements for allowance and substantiation of public sight-seeing

of historic property classified under ORS 358.475 to 358.545;

(2) Provide minimum maintenance standards for the property; and

(3) Delineate any other matters necessary to carry out the purposes of ORS 358.475 to 358.545. [1975 c.514 §11]

**358.565 State historic preservation officer.** (1) The Governor shall designate a State Historic Preservation Officer who shall serve at the pleasure of the Governor. In case of vacancy, the Governor shall designate a successor.

(2) The State Historic Preservation Officer shall appoint a staff of persons well qualified in history, architectural history, architecture, archaeology and education as technical assistants and analysts.

(3) In addition to the powers and duties assigned to the State Historic Preservation Officer under ORS 358.475 to 358.545, the State Historic Preservation Officer shall perform whatever functions as are authorized by law. [1975 c.514 §12; 1983 c.268 §2]

## HISTORIC PRESERVATION PLAN

**358.605 Legislative findings.** (1) The Legislative Assembly declares that the cultural heritage of Oregon is one of the state's most valuable and important assets; that the public has an interest in the preservation and management of all antiquities, historic and prehistoric ruins, sites, structures, objects, districts, buildings and similar places and things for their scientific and historic information and cultural and economic value; and that the neglect, desecration and destruction of cultural sites, structures, places and objects result in an irreplaceable loss to the public.

(2) The Legislative Assembly finds that the preservation and rehabilitation of historic resources are of prime 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 savings and are important to the revitalization of deteriorating neighborhoods and downtowns.

(3) It is, therefore, the purpose of this state to identify, foster, encourage and develop the preservation, management and enhancement of structures, sites and objects of cultural significance within the state in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966 (P.L. 89-665; 16 U.S.C. 470). [1983 c.268 §1]

358.610 [1953 c.475 §1; renumbered 390.410]

**358.612 Duties of State Historic Preservation Officer.** The State Historic Preservation Officer:

(1) Shall conduct or cause to have conducted a comprehensive, statewide survey to identify districts, sites, buildings, structures and objects that are potentially significant in Oregon history, prehistory, architecture, archaeology and culture;

(2) Shall prepare and implement a comprehensive statewide historic preservation plan to assist local governments in developing their preservation programs and participate in the national program;

(3) Shall maintain a statewide inventory of historic properties;

(4) Shall create a mechanism for an Oregon State Register of Historic Properties in which to record significant historic properties with the State Advisory Committee on Historic Preservation developing the criteria for such properties;

(5) Shall nominate properties of historical, prehistoric architectural, archaeological and cultural significance to the Oregon State Register of Historic Properties and to the National Register of Historic Places;

(6) Shall administer state and federal tax incentive provisions for the preservation of properties on the state and national registers;

(7) Shall provide information on federal and state tax benefits for preservation projects;

(8) Shall administer grant programs to conduct surveys of historic properties and to assist the development of properties on the state and national registers;

(9) Shall provide or assist other appropriate state agencies in providing information and education on the economic and social benefits of developing historical and cultural resources;

(10) Shall provide public education and information to foster the purposes of ORS 358.565 to 358.622;

(11) Shall provide technical assistance as funds permit;

(12) Shall work with local, statewide and national organizations to develop means of promoting historic preservation, including legislation, financing, education, easements, conferences and workshops and audio-visual materials;

(13) Shall, when a project involves Native American concerns, work with the Commission on Indian Services, project administrators and the local Indian tribes or communities to insure that these concerns are adequately addressed;

(14) May review and comment on the impact of publicly funded projects and programs;

(15) May accept gifts and grants to be used for purposes consistent with ORS 358.565 to 358.622; and

(16) Subject to the availability of funds therefor, serve as staff for the State Advisory Committee on Historic Preservation. [1983 c.268 §3]

**Note:** Section 1, chapter 616, Oregon Laws 1991, provides:

**Sec. 1. Duties relating to historic remains and artifacts.** To the extent that funds are available, the State Historic Preservation Officer shall review relevant state laws and state agency rules that relate to historic remains and artifacts to determine if these provisions are in compliance with the provisions of Public Law 101-601. If the State Historic Preservation Officer determines that any statutes are not in compliance with Public Law 101-601, the officer shall propose remedial legislation to the Sixty-seventh Legislative Assembly. If the State Historic Preservation Officer determines that any rules are not in compliance with Public Law 101-601, the officer shall notify the agency that adopted the rule and that agency shall take remedial action. [1991 c.616 §1]

358.615 [1953 c.475 §2; 1955 c.547 §1; renumbered 390.420]

**358.617 Rulemaking.** Pursuant to ORS 183.310 to 183.550, the State Historic Preservation Officer shall adopt rules to carry out the duties and functions of the officer, including rules governing cultural resource management programs and grants-in-aid program categories. [1983 c.268 §4]

358.620 [1953 c.475 §4; 1955 c.547 §2; renumbered 390.430]

**358.622 State Advisory Committee on Historic Preservation.** (1) There is created a State Advisory Committee on Historic Preservation consisting of not more than nine members appointed by the Governor. At least one-half of the members shall be from among persons recognized as professionals in the areas of history, architectural history, architecture, archaeology, museum management or cultural or ethnic minorities. A representative of the Oregon Native American Indian community shall be appointed.

(2) The committee:

(a) Shall review and make recommendations concerning nominations by the State Historic Preservation Officer of properties to the state and national registers of historic properties and places;

(b) Shall advise the State Historic Preservation Officer on matters of policy, programs and budget; and

(c) May perform such other duties as may be requested by the State Historic Preservation Officer.

(3) The Governor shall select the chairperson and vice-chairperson with such terms

and duties as the committee may prescribe. Five members of the committee constitute a quorum. The committee shall meet a minimum of three times a year.

(4) Members of the committee shall not receive compensation but shall be entitled to actual and necessary travel expenses subject to ORS 292.495.

(5) The committee shall develop the criteria for the creation of an Oregon State Register of Historic Properties, and review properties for acceptance by the Oregon Property Management Account and may appoint any other committee or subcommittee necessary to carry out its functions. [1983 c.268 §5]

358.625 [1953 c.475 §3; renumbered 390.440]

358.630 [1953 c.475 §5; renumbered 390.450]

SPECIAL ASSESSMENT OF HISTORIC PROPERTY FACT SHEET  
(ORS 358.475 - .565 and OAR 735-50-105 - 145)

STATE  
HISTORIC  
PRESERVATION  
OFFICE

Parks & Recreation  
Department

**INTRODUCTION:**

1. To be eligible for special assessment, a property must meet the definition of "Historic Property" given in the "Definitions" section of the special assessment's Oregon Administrative Rule [OAR 736-50-105(5)].

The SHPO shall make a determination as to whether or not a property within an historic district contributes to that district based on its condition at time of application. [Refer to OAR 736-50-115(6) for more details].

2. A property does not automatically receive special assessment when it is designated as an historic property. To receive the special assessment, an owner must make an application following the procedure given in [OAR 736-50-110].
3. Restoration or improvement to the condition of the property is not required in most cases, but in order to receive the full benefit of the fifteen-year period, owners of properties in need of repairs or improvements should apply for special assessment before these are made. The State Historic Preservation Office (SHPO) may require that certain repairs or improvements be made as a condition of application approval.
4. Once the benefit is in effect, it allows the owner to restore or improve the condition of a property and not pay taxes on the resulting increase in the property's value until the fifteen-year period has expired. At the end of the fifteen-year period the owner will begin to pay taxes on the full value of the property, but does not have to pay back the tax savings that were accumulated during the fifteen-year special assessment period.
5. SHPO policy encourages the everyday use of historic properties while at the same time preserving the property's historically significant characteristics. This means that modern, safe, and efficient electrical, plumbing, and heating systems are encouraged. It also means that alteration or removal of historically significant features is acceptable only when compelling reasons exist, and only after SHPO design review and approval. Changes to suit an owner's personal taste will be discouraged if the changes erode the historic authenticity of the property.
6. The special assessment applies to the entire property that has been designated for special assessment as historic property. This includes the interiors and exteriors of buildings as well as the specified parcels of land under and around buildings.
7. A special assessment runs with the property. When a property is sold, the new owner does not have to reapply for special assessment. The original special assessment remains in effect for 15 years from the date it was granted unless it is removed at an owner's request or by administrative action.

(OVER)



525 Trade Street SE  
Salem, OR 97310  
(503) 378-5001  
FAX (503) 378-6447

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.) If the property is within the boundaries of a Register-listed historic district, enter the name of the district below]

Date of Construction:

Property Address: (Street)
(City) (County)

Code & Account Number(s):
(From computer printout available from County Assessor's Office)

Table with 3 columns: Current Value of Property, Land, Improvements, TOTAL, Assessed Value (from property tax computer printout), Application Fee (assessed value x .001) (NON-REFUNDABLE). Each row has a dollar sign and a blank line for input.

Property Owner: Name, Mailing Address, City, State, Zip, Telephone Day, Evening

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.

Applicant's Signature Title Date

- Attach: ( ) A copy of the County Assessor's tax statement or current computer printout listing the property's real market value, and
( ) A certified check or money order for the application fee, made payable to the State Parks and Recreation Department, and
( ) Color photographs (NO SLIDES, POLAROIDS OR CONTACT SHEETS) which show each exterior elevation of each building on the property to be specifically assessed, as well as representative views of interior rooms 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 Department
525 Trade St. SE
Salem, OR 97310

OREGON STATE HISTORIC PRESERVATION OFFICE

Design Review and Approval Affidavit

I (we) the undersigned, as owner(s) of an historic property receiving benefits under the Special Assessment Program, hereby acknowledge under penalty of perjury that I (we) have read, understand, and agree to abide by the design review and approval provisions as stated in the administrative rules governing this program under "Changes and Alterations" [OAR 736-50-125(1-5)].

\_\_\_\_\_  
Owner(s) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Owner(s) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Owner(s) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (print)

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

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

\_\_\_\_\_  
Property Address

\_\_\_\_\_  
City/County

\_\_\_\_\_  
Tax Acct. No.

RETURN THIS FORM WITHIN THIRTY (30) DAYS OF RECEIPT.

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