

CHECKLIST
FOR
OWNER NOTIFICATION AND CONSENT
(National Register Nominations)

The National Historic Preservation Act, as amended, provides that the owner(s) of private property may object to listing of their property in the National Register of Historic Places. These guidelines are designed to assist Certified Local Governments in the owner notification process and determination of owner consent.

- A. For every nomination submitted to or prepared by the CLG, all owners must be notified that their property is under consideration for nomination to the National Register of Historic Places in accordance with 36 CFR 60. The process is as follows:
1. At least thirty (30) days, and not more than seventy-five (75) days prior to the meeting of the local review commission, all owners of private or public property and appropriate local officials (mayor, city manager, county commissioners, etc.) shall be notified.
 2. The CLG shall notify each property owner by use of the “property owner letter” provided by the SHPO when there are fifty (50) or fewer owners having interest in the property. (There must be several owners of a single piece of property or, in the case of a district, there may be numerous owners.)
 3. Each owner notification letter shall be sent by certified mail with a return receipt requested. The receipts must be retained as a part of the National Register nomination file.
 4. All appropriate local officials shall be notified by using the “local officials letter” provided by the SHPO. This letter shall also be sent certified mail with return receipts requested and retained as part of the National Register nomination file.
 5. When there are more than fifty (50) owners having interest in a nominated property, the CLG may notify each owner individually as described above, or a paid legal notice may be used. The wording for such paid legal notices must be that provided by the SHPO. If the paid legal notice is used, it must appear in a newspaper of general distribution within the area where the project is located at least thirty (30) days prior to the date the local review commission shall consider the nomination. When the paid legal notice is used, a public hearing must be held prior to the meeting of the local review commission, and a member of the SHPO staff must be present at the hearing. Even when the paid legal notice is used, the appropriate local officials must be notified as described in #4.
- B. If the owner of a private property (or the majority of owners) object to listing in the National Register of Historic Places, then the nomination, if considered

eligible for nomination, shall be submitted to the Keeper of the Register for a “Determination of Eligibility” (DOE). If a property receives a DOE then federal agencies must consider it in planning for projects that they may fund or license. However, a DOE will not prohibit the owner(s) from obtaining the 10% investment tax credit. (If a property is formally listed in the National Register of Historic Places, then only the 20% investment tax credit can apply and a “certified rehabilitation” is required.) Objection to listing in the National Register of Historic Places exists when:

1. An individual owner has submitted a written statement to the CLG certifying that he/she is the sole owner of the specified property and objects to listing in the National Register. This statement must be notarized. It must be received by the deadline set forth in the notification letter mailed to the owner.
 2. If more than one property owner has interest in an individual property or, in the case of a district nomination, then a majority (51%) of the owners objecting in the method described in #1 above will prevent formal listing in the National Register of Historic Places. In the case of multiple ownership, each owner has one vote regardless of the percentage of the property he/she may own.
- C. If the owner(s) objecting to listing in the National Register, or new owner(s), desire the property to be listed in the Register, a written request shall be submitted to the CLG stating that he/she is the sole owner of the subject property and now desires it to be listed in the National Register. The statement must be notarized. The CLG shall transmit this request to the SHPO who shall submit it to the Keeper of the Register. If the property was previously given a DOE, it will automatically be formally listed if a majority of the owners desire the listing and request it as described above.
- D. If a nomination for an individual property submitted to the CLG is for a federally-owned property, the SHPO must be contacted to assist in the request of the federal agency’s consent for nomination. Also, if a federal agency owns partial interest in a nominated property (such as in a district), the SHPO shall also be contacted.
- E. Properties nominated in the multiple format will be individually listed in the National Register. Only the owner of a specific property can object to listing. Therefore, if there are nine (9) properties in a multiple property submission, four (4) could be listed in the Register even though the owners of the remaining five (5) properties objected to the listing. Notification procedures are the same as described in A.1-5 above.
- F. When the owner(s) object to listing in the National Register:
1. The CLG shall respond to the written notarized statement of objection with the “Acknowledge Receipt of Owner Objection” letter provided by the SHPO.

2. If the Keeper of the Register issues a “Determination of Eligibility,” the CLG shall notify the property owner by using the “Notification of Determination of Eligibility” letter provided by the SHPO.

G. When the SHPO notifies a CLG that properties have been listed in the National Register:

1. If there are fifty (50) or fewer owners, the CLG shall inform each owner by use of the “Notification of Listing” letter provided by the SHPO with copies to the appropriate local officials. The SHPO will provide courtesy notification of listing to the appropriate State Senator and State Representative.
2. If there are more than fifty (50) owners, the CLG may notify each owner as in G.1. above, or the CLG may publish a press release announcing the listing in a local newspaper of general distribution.

H. In some situations it may become necessary to schedule a nomination for presentation to the local review commission when a thirty (30) day notice is not possible. In such a case, the CLG must obtain a notarized “Owner Waiver” and a “Local Official’s Waiver,” as provided by the SHPO. Instances where this option is used will be quite rare. If the CLG uses this method, a complete explanation of why it was used must be provided as an attachment to the “National Register Nomination Report,” as well as the original notarized waiver forms.