

A Good Place to Start: What every landmarks commissioner should know

As a state Certified Local Government (CLG) coordinator I find it overwhelming to think about training almost 60 CLGs so they can all effectively run their preservation programs. Let's face it; I can't. So I began to ponder how to better frame training and came up with questions that every staff or commissioner should be able to answer about their local preservation program. The idea is that it will be easier to self-educate if you know what questions to ask.

Question: Have you read your ordinance? Do you understand it well enough to provide a summary if someone were to ask?

Question: Is your commission advisory or quasi-judicial?

Answer: Each community is different but it can only be one or the other. It should be described in the ordinance whether the commission's decisions about a COA and/or register listing are advisory to another entity in the local government, such as the building official, or if the commission has the final say.

Question: What properties are listed on your local register? Where does the public find that information?

Answer: If information about listed properties is not available on the local government website, it should be.

Question: How is a property listed on your local register? What are the criteria?

Answer: While criteria for listing are fairly consistent from community to community, there can be subtle differences and you should be able to generally describe the criteria.

Question: Is owner consent required for local register listing of private property?

Answer: This is different for every jurisdiction, but it is either yes or no. For historic districts the percentage of owner consent varies anywhere from 50 to 100%.

Question: What is the difference between National and Local registers?

Answer: The answer is that they are completely separate registers. The National Register is a federal program administered by the states. The local government has a role in National Register listing only if they are a CLG with a nomination in their jurisdiction. But, sometimes local or even state governments tie local regulations to National Register-listed properties. If this is true for your jurisdiction you need to know how the ordinance applies to each type of registered property. You also need to know that National Register listing itself does not impose any regulations on private property owners and that automatically listing a National Register property on a local register denies the property owner due process because they did not get to participate in the listing process. Even if local register listing does not require owner consent, owners are still entitled to due process.

Question: What are the Secretary of the Interior's *Standards for Rehabilitation*?

Answer: The Secretary of the Interior's *Standards for Rehabilitation* are the Standards are used by the National Park Service and State Historic Preservation Offices to review Federal Rehabilitation Tax Credit projects. The *Standards* have also been adopted by many local governments for use in reviewing Certificate of Appropriateness applications. However, keep in mind that while the *Standards* have been adopted verbatim by many local governments, other local governments have modified the Standards to suit their needs. Either way, you should be aware of the *Standards* and how they may or may not deviate from your local ordinance standards for review.

Question: What is your COA application process? Is this information readily available to the public?

Answer: This process will differ in every jurisdiction.

Question: What standards are used to review a project under a Certificate of Appropriateness application?

Answer: If the Secretary of the Interior's *Standards for Rehabilitation* are not used, what standards are used? You should have a general understanding of how they apply to the review of projects.

Question: What is a defensible decision?

Answer: A defensible decision is one that is based on findings of fact regarding an application. Such decisions must be able to withstand scrutiny should they be appealed. For example, the denial of a certificate of appropriateness must include a specific explanation of why the application does not meet all of the applicable standards. A decision that is a personal opinion or based on false or misleading information is not defensible.

Question: Where do I find information about historic materials and their treatment?

Answer: You can find most of what you may need to know in the Preservation Briefs provided by the National Park Service. There is information on most historic materials and features from brick to metal to wooden porches. They are all online: <https://www.nps.gov/tps/how-to-preserve/briefs.htm>

Question: What is a CLG?

Answer: CLG stands for Certified Local Government. The CLG program was founded in 1980 when it was enabled by an amendment to the Historic Preservation Act. It means that a local government has met the requirements to be certified by the National Park Service and enables them to be eligible for grant funding. State Historic Preservation Offices are required to distribute 10% of their federal funding each year to CLGs. Most do so through a competitive grant round. Chances are if your community has a historic preservation program, it is a CLG. There are almost 2000 CLGs in the US.

Question: What is historic property survey?

Answer: The historic survey is the initial building block of a preservation program. This is how the local government can identify historic properties and then plan for their preservation, whether that is through education or regulation. The product of a historic survey is the identification of properties that are worthy of protection under the ordinance, whether that is individual properties or a historic district. The preparation of a historic survey document involves field work, actually going out and looking for properties and research to determine significance if it is not known. Once properties are identified they can be included in planning decisions and if they are listed in the register, changes to them will be reviewed by the commission. Once properties are identified, local governments and the community can be proactive in planning for resources instead of being reactive – only acting when a property is threatened.

Question: Are you prepared to deny a COA application that does not meet the *Standards*? What if the applicant is someone you know?

Answer: This is a question not just for the commission, but for the individual.

Question: What is the difference between a historic district and an individual landmark? What does it mean for a property to be “contributing” or “non-contributing” within a historic district?

Answer: A historic district is made up of related resources that, as a group, are more significant than they are individually. The resources share a common story and a related geography. A district has a boundary. Individual landmarks are considered significant enough on their own to be listed. When historic districts are listed, interiors are not considered, but they are considered for individual listings. There is generally a higher threshold of significance and integrity required for individual listings.

District properties are either contributing or non-contributing. Contributing properties are historic and eligible for incentives. Projects affecting those properties should be reviewed in accordance with the Standards. Reviews for projects affecting contributing properties districts often exclude interiors, except when there is an application for incentives. The specific exclusion of reviews for interior projects should be stated in the ordinance.

Question: Did I mention you should read and understand your ordinance?