

NPS/National Register of Historic Places
Identifying, Notifying & Counting Property Owners In Historic Districts

Identifying, Notifying and Counting Property Owners
When Nominating Properties to the National Register of Historic Places

National Register of Historic Places regulations [36 CFR Part 60] require that as part of the nomination process, the States must identify the owners of the nominated property, notify the owner(s) in writing of the State's intent to nominate the property, and provide the owner(s) an opportunity to concur in or object to the nomination. If the private property owner or a majority of the private property owners (in instances of multiple ownership of a single property or of districts) formally objects (by notarized letter) to the listing, the property cannot be listed in the National Register [36 CFR 60.6(g)].

National Register regulations define "owner or owners" as "those individuals, partnerships, corporations, or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations, or public agencies holding easements or less than fee interests (including leaseholds) of any nature," [see 36 CFR 60.3(k)].

To identify property owners, the nominating authority is required to consult the list of owners "from either official land recordation or tax records," [36 CFR 60.69c)]. The state must determine how many owners there are, and of that number, how many are private (as opposed to public) owners. Public owners (local, state, or national government entities) can voice an objection, but it does not count in determining if a majority of owners object and thus prevent listing; only private property owner objection can prevent listing.

The following guidance is found in National Register regulations or contained in previously issued National Register policy letters.

Who gets to vote? Each person listed in the land recordation or tax records as an owner gets one vote, regardless of how many properties or what part of one property that party owns, and regardless of whether the property contributes to the significance of the district [36 CFR 60.6(g)].

Thus *what is important is not how many properties are within the nominated boundary, but how many property owners.*

How to count owners.

A husband and wife are both listed as owners - each gets a vote and their vote is counted separately. If only one spouse is listed in the records as owner, that person gets one vote.

Several people own one property and each is recorded as an owner - each gets one vote.

A person owns several properties within the nominated boundary - that person gets one vote, regardless of how many properties he or she owns.

A partnership is listed as an owner - the partnership is considered one owner and it gets one vote (regardless of how many partners there are).

A corporation is listed as an owner - the corporation gets one vote.

A trust is listed as an owner - the trust is considered one owner and it gets one vote.

A condominium is included within the nominated boundary. The owners of individual units in a condominium hold fee simple title to their property, and therefore are considered owners under the notification provisions of National Register regulations. Each owner of a condominium unit listed in the official land recordation or tax records gets one vote. In addition, the condominium association may be considered one owner for notification purposes if the common areas of the condominium property are owned in fee simple title by that entity.

A co-operative (co-op) is included within the nominated boundary. Those individuals participating in a co-operative are part of a corporation and do not hold fee simple title - the co-operative gets one vote.

A district which includes both public and private property owners. Example, a district includes 100 owners (four public property owners and 96 private property owners). For purposes of owner concurrence or objection, only the 96 private property owners' votes must be tabulated. If 49 of the private property owners (51% of 96) object, the property cannot be listed.

What constitutes a majority?

If a majority of private property owners formally objects, the property cannot be listed. If there are two private property owners and only one objects, the property can be listed; both must object to constitute a majority to block listing. If there are three owners, two of the three must object. If there are fifty owners, twenty six must object, etc.

Additional questions.

Question 1. Can anyone who becomes an owner prior to the final action on the nomination cast a vote concurring in or objecting to the nomination?

Answer: Yes. While the regulations require the State to send written notification to the owners of record at least 30 but not more than 75 days before the State Review Board meeting, the regulations also provide that:

“If an owner whose name did not appear on the list certifies in a written

notarized statement that the party is the sole or partial owner of a nominated private property such owner shall be counted by the SHPO in determining whether a majority of owners has objected" [36 CFR 60.6(g)].

Notarized letter of objection from private property owners will be considered by the Keeper of the National Register if received by the Keeper prior to the date of listing of the property.

Question 2. What is the "record date" for determining ownership and, therefore, eligibility to express consent or objection to the nomination?

Answer: National Register regulations require that the State obtain the property owner list "within 90 days prior to the notification of intent to nominate" [36 CFR 60.6©]. As outlined in our response to Question 1, however, any owner not appearing on such lists may still concur in or object to listing by providing the required documentation establishing ownership.

Question 3. Can a notarized statement of consent or objection become "stale" and cease to be effective because it was made too far in advance of the State's final action?

Answer: No. Statements of consent or objection do not automatically become "stale" or invalid unless new documentation becomes available that contradicts the previous information (i.e., an owner provides a new letter of consent or notarized objection, or a different owner is identified and verified). In cases where there has been a significant passage of time from the original notification and the submittal of the nomination of the property to the National Register, the SHPO is required to renotify property owners, including the reverification of the list of the list of owners required under 36 CFR 60.6c. In addition, if subsequent to nomination (i.e., after it is formally nominated and returned to the State by the National Register) a State makes a major revision to a nomination or renominates a property rejected by the Keeper, the SHPO shall notify the affected property owners and chief elected local official of the revisions or renomination in the same manner as the original notification for the nomination [36 CFR 60.6(w)].

Question 4. What if the owner's letter of objection is not notarized, as required by 36 CFR 60.6(g)?

Answer: If the State receives an owner objection letter that is not notarized, the objection does not count. The State may want to alert the owner that the letter is deficient and the objection will not be counted.

Any questions concerning counting property owners, please contact NR Historians, Patrick Andrus at (202) 354-2218 or Paul Lusignan at (202) 354-2229.