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# MARYLAND HISTORICAL TRUST

## PRESERVATION BULLETIN № 1

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June 2007

### THE MARYLAND INVENTORY OF HISTORIC PROPERTIES

#### **What is the Maryland Inventory of Historic Properties?**

The Maryland State Legislature created the Maryland Inventory of Historic Properties (MIHP) and charged the Maryland Historical Trust (Trust or MHT) with developing and administering the inventory as an archive of information that would further understanding of the State's architectural, archeological, and cultural resources.

The Trust shall compile a Maryland Inventory of Historic Properties that consists of districts, sites, buildings, structures, and other objects of known or potential value to prehistory, history, upland and underwater archeology, architecture, engineering, and culture of the State.

*Annotated Code of Maryland,  
State Finance and Procurement Article, § 5A-323(a).*

The MIHP is a research and documentation – *not a regulatory* – instrument. The legislature provided elsewhere in State law for mechanisms – separate from the MIHP – giving both the State and local jurisdictions the authority to regulate appropriately designated historic resources.

To date, the MIHP is comprised of nearly 90,000 resources, with approximately 4,500 new or updated entries submitted in 2006. (To view resources listed in the Maryland Inventory, see [www.marylandhistoricaltrust.net/mihp-search.html](http://www.marylandhistoricaltrust.net/mihp-search.html).)

Resource documentation may include short summary or long narrative descriptions of a resource's physical and/or historical characteristics, maps, photographs, measured drawings and other descriptive materials. The level of resource documentation included in the inventory varies from entry to entry. Information on certain resources is quite cryptic. For example, many of those resources first added to the inventory after its creation in the early 1960s have only a brief architectural description with, in some cases, minimal photographic documentation. At the other end of the scale are resources documented after the adoption in 2000 of "Standards and Guidelines for Architectural and Historical Investigations in Maryland." (A copy of the "Standards" is available at [www.marylandhistoricaltrust.net/s&g-architect.pdf](http://www.marylandhistoricaltrust.net/s&g-architect.pdf).) The "Standards and Guidelines" require the use of a standardized inventory form and a description of survey information that meets certain comprehensive documentation standards. Many of the most completely documented resources in the MIHP are the product of MHT grant-supported survey projects or federal or State project compliance review.

**Listing a resource in the MIHP has no regulatory impact on that resource.** The determination of a resource's historic significance is not a requirement for inclusion in the MIHP. In fact, the majority of surveys do not specifically evaluate a property for National Register or Maryland Register eligibility. (See below for a discussion on National Register and Maryland Register eligibility criteria.)

This is the first in an occasional series of **Preservation Bulletins** that the Maryland Historical Trust intends to produce to support a more complete understanding of the programs, initiatives, and responsibilities of the Trust, Maryland's State Historic Preservation Office.

However, the documentation included in the MIHP, as a repository of available descriptive materials on architectural and archeological sites, structures, objects, and districts, may provide a basis for separate evaluative decisions. In this respect, MHT, other State agencies, and local governments may use the MIHP as a tool for planning. *Note, though, that no agency should use MIHP listing to trigger regulatory actions.*

[A] resource's inclusion in the National or Maryland Register or a local landmarks list may trigger certain regulatory protections, while MIHP listing does not.

### **What Distinguishes the MIHP From Other Catalogs of Federal, State, and Local Historic Resources?**

**The Maryland Inventory should not be confused with the National Register of Historic Places, the Maryland Register of Historic Properties, or local lists of locally designated historic resources.** The National Register is a federal list of districts, structures, objects, and sites recognized for their significance in American history, archeology, architecture, engineering, or culture. Unlike the process for inclusion of a property in the MIHP, which does not necessitate the evaluation of a resource for significance prior to its listing, the National Register designation process requires that resources must be found to meet the National Register Criteria for Evaluation prior to being listed in the National Register. (For information about the Criteria for Evaluation, see [www.cr.nps.gov/nr/listing.htm](http://www.cr.nps.gov/nr/listing.htm).) The Maryland Register consists of those Maryland resources listed in the National Register and those that the MHT Director determines are significant to the prehistory or history, upland and underwater archeology, architecture, engineering, or culture of Maryland and therefore are eligible for listing in the National Register. (See State Finance and Procurement Article, §§ 5A-301(d) and 5A-323(b).) Local lists of locally designated properties (local landmark lists) are similar to the National and Maryland Registers in so far as they require that resources meet locally determined standards before a jurisdiction may add the resources to its local list. (See Article 25A, §5(BB), Article 28, §8-101(c), and Article 66B, §§ 2.12 and 8.02.) This eligibility requirement distinguishes inventories of locally designated resources from the Maryland Inventory.

Additional differences distinguishing the MIHP from the National or Maryland Registers and local landmark lists bear noting. Principally, *a resource's inclusion in the National or Maryland Register or a local landmarks list may trigger certain regulatory protections, while MIHP listing does not.* Due in part to this regulatory component, the National Register, Maryland Register, and local designation processes require public notification, while owner notification is not compulsory for including a resource in the MIHP. Further, resources that no longer meet the significance criteria for listing in the National or Maryland Register or local landmark lists may lose their National or Maryland Register or local landmark status, while a property once included in the MIHP remains in the MIHP, regardless of any change in the resource's condition. As a repository of information on

nearly 90,000 historical, architectural, or archaeological resources, the MIHP is an unparalleled research tool for those interested in Maryland's built environment and its change over time, and even those resources that at some point are demolished, altered, or otherwise lose the characteristics for which they may be significant are important to understanding Maryland's past.

[L]ocal jurisdictions [have] the authority to enact local historic area zoning ordinances for the purpose of safeguarding ... significant sites, structures, or districts ...

#### **Four Reasons For Not Using the MIHP For Regulatory Purposes.**

There are four fundamental reasons cautioning against using the MIHP to trigger regulatory actions:

1. **Using the MIHP to trigger regulatory review may raise issues related to due process**, the Constitutional guarantee that government act fairly in making decisions affecting private citizens and protect the public from arbitrary governmental actions. Because there is no public hearing when a resource is listed in the MIHP and owner notification is not a requirement for inclusion, using MIHP listing to trigger regulatory action elicits concerns about protecting individual property rights and complying with the principle that government decisions should be made openly.
2. Because a determination of significance is not a requirement for inclusion of a property in the MIHP, **the MIHP may include resources that today are not significant and therefore should not be subject to historic preservation regulation.**
3. **Resources are never removed from the MIHP.** The MIHP does include some resources that, with further analysis, may be determined not to be historic, as well as some once-historic resources that since have been demolished or unsympathetically altered. These resources would likely not meet any definition of significance and they should not be subject to historic preservation regulation.
4. **Using the MIHP for regulatory purposes would have a chilling effect on future research, documentation, and registration efforts.** Some property owners would be unwilling to allow their properties to be surveyed for potential historic significance at all if such action would automatically bring the property under regulatory review.

#### **What Can Local Jurisdictions Do To Protect Historic Resources?**

The State of Maryland has granted local jurisdictions the authority to enact local historic area zoning ordinances for the purpose of safeguarding the heritage of the jurisdiction through the preservation of significant sites, structures, or districts; stabilizing and improving property values; fostering civic beauty; improving local economies; and promoting the preservation and appreciation of historic resources for the public good. (See Article 25A, §5(BB), Article 28, §8-101(c), Article 66B, §2.12, and Article 66B, §§8.01 – 8.17, [www.marylandhistoricaltrust.net/art66b.pdf](http://www.marylandhistoricaltrust.net/art66b.pdf)).

Article 66B, §§8.01-8.17 authorizes non-charter counties and all municipalities except Baltimore City to promulgate historic preservation ordinances. Article 25A, §5(BB) gives similar authority to all charter counties except Montgomery and Prince Georges counties, which receive their authorization under Article 28, §8-101(c). Article 66B, §2.12 grants Baltimore City its authority to create a local historic preservation ordinance.

Among the powers granted to local jurisdictions through the State's authorizing statutes are the authority to adopt criteria for determining local significance and to develop a process for designating historic districts and landmarks in order to protect locally designated resources. Due process requires that jurisdictions adopt their significance criteria and designate resources through an open, public process, after notice to affected property owners. Local governments using the MIHP (or the National or Maryland Registers) as anything more than a research tool to facilitate their own full understanding of whether local resources meet locally adopted designation criteria may raise due process concerns.

As of this writing, forty-seven local jurisdictions – thirty-three municipalities and fourteen counties – have adopted local historic area zoning ordinances. A list is available at [www.marylandhistoricaltrust.net/hdc.html](http://www.marylandhistoricaltrust.net/hdc.html).

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The Maryland Historical Trust is an agency of the Maryland Department of Planning.