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## THE WASHINGTON STATE HISTORICAL SOCIETY

August 6, 1975

To The Mayor and Members of the City Council:

Last night, at the City Council meeting when landmark potentials were being discussed, a question arose concerning federal historic preservation legislation and its relationship to our local ordinance. The program is administered by the Washington State Parks and Recreation Commission (appointed by the Department of the Interior as the state liason agency with the federal government). Dave Hansen is the Chief of the Historic Preservation Division (P.O. Box 1128, Olympia, 98504), and could undoubtedly do a far greater job than I in answering questions related to the legislation.

The greatest concern seems to be that there is no coordination between local landmark commissions and the designations made by them, and those designations determined by the Washington State Governor's Advisory Council on Historic Preservation and hence the Department of Interior. It must be remembered, however, that the National Historic Preservation Act was passed by Congress in 1966, at a time when there were few local landmark commissions in existence (this could still be considered the case in all but the larger cities) and our oversized physical heritage was becoming an endangered species. It was also a time when demolition was being done through the auspices of the federal treasury. Recognizing the individual's right to do with his property as he saw fit, and challenging the right of an outside source (the federal government in this case) to interfere with that right, the federal historic preservation legislation established a framework whereby the local area has a responsibility to inform the federal government as to their opinion on their physical heritage. The Advisory Council on Historic Preservation, in short, relies on the cooperation of each individual community in determining what should become a landmark.

This reliance is not, however, to be restricted to any government agency, historical association, or civic club. It has become a right for every individual, acting alone if he wishes. If this were not allowed, then an individual property owner, as an example, who considers his property of historic value can be

prevented from nominating his property to the national register by, say, a local landmarks commission. This is a very real property restriction as opposed to those fears expressed by some who maintain that both local and national historic preservation legislation restricts property rights simply by the designation. The latter is an imaginary fear, the former is very real. The former tells an individual what he cannot do with his property. The latter shows an awareness of the law, for while the local ordinance provides a stop-gap process which can in the end allow the individual to do what he wishes with the property (probably ending with the removal of the property from the landmarks registry), so does the federal. Incidentally, the majority of nominations which I have helped prepare for the national registry have been through the request of the individual property owner.

This aspect of individual property rights tends to get ignored in the concerns expressed that federal historic preservation legislation restricts what an individual can do with his property. It does not restrict what the owner can do, it limits and sometimes prohibits what others can do with it. I should add too at this point, that historic preservation, as it is administered on the national and state levels, is a professional undertaking combining the expertise of architects, archaeologists, historians, city planners as well as people responsible for governing the local units and the interested citizen. Decision as to landmark status is not done randomly, but is made on the basis of stringent criteria. A landmark does not become so on the basis of emotional whim (such a cute little building); it must prove itself on the basis of evidence.

In short, to get back to the original issue, there is no coordination between federal legislation and local landmark commissions simply because the latter is a new element on the scene while the former has been operational for almost 10 years. While there should be cooperation between the two, and I am confident the future will allow for it, I would sincerely challenge the situation whereby an individual would be prevented from acquiring national landmark status apart from the activities of any local commission, for it can be considered a pretty serious infringement on his property rights.

I do not know if this will even be a consideration to be made by the City Council, but the issue was raised, rightly or wrongly, last night. This letter, I hope, has served as a possible educational tool (sprinkled with my own opinion). Its impetus is expressed opinion that only those landmarks approved by the city should be considered for inclusion on the national register. Apart from a feeling that the federal government might consider this illegal, I think it would be a serious infringement on property rights.

I appreciate and thank you for the support you have given to the Tacoma Landmark Commission in its work.

Sincerely,  
*Caroline Dallacci*  
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