

_____, 2016

RE: Proposed Bill to Amend 1970 Public Act 169 Local Historic Districts Act, House Bill 5232 & Senate Bill 720

Dear _____,

These comments are regarding House Bill 5232 and Senate Bill 720 and the proposed changes to 1970 Public Act 169 Local Historic Districts Act.

Significant resources in Michigan rely on protection from inappropriate alterations, incompatible new construction, and development pressures that often result in demolition. Such protection comes in the form of Michigan's current state law, PA 169 of 1970, enabling local governments to choose to safeguard their historic resources within local historic districts across the state. This local legislation declares historic preservation to be a public purpose and as so, it has value to the entire community. The system we have is not broken—there is no need for the amendments proposed in HB 5232 and SB 720 and they go too far. Their sponsors are calling these bills “modernization” bills, but they are not that. These proposed amendments completely change the way the local historic designation process and district administration works in response to several mistaken assumptions.

The bills' sponsors state that a local historic district's boundaries are established by the state and not the local community. This is not true. This process is in the hands of the local legislative body from start to finish. The local legislative body appoints the study committee and decides whether to establish a district or not, and sets final district boundaries in the local ordinance. Currently, the State Historic Preservation Review Board receives local study committee reports for comment, but those comments are NOT binding on the local communities—they are advisory. If a local historic district's boundaries change in the future, again, that process is started and finished at the local level. Local legislative bodies establish local historic districts through the local democratic process—public hearings, discussion, and local voting by the elected officials.

The proposed changes in HB 5232 and SB 720 undermine the ability of a community to pursue protection of important local landmarks by requiring that 2/3 of property owners within a proposed district boundary first consent to establishing a local historic district. Furthermore, requiring that exact boundaries for a potential local historic district be proposed before appointing a study committee is contradictory to the work the committee is charged with doing—completing research about the significance of historic resources and the area including the boundaries, which are often determined by contiguous architectural styles, plat maps, and other relevant information uncovered during the research process. Whether a house is historic or contributes to its district or not is *not* based on property ownership—it's based on the research outcomes. The bills' sponsors state that property owners' rights and consent are not currently included in the process of local historic district designation. Because it is a local, political process, their input is very much part of the complete process through meetings, workshops, and public hearings. The preservation of historic places is a public purpose, upheld by the Supreme Court, and the preservation of historic assets is a long-term goal—it takes a longer view than the property ownership that will probably change every seven years or so.

In order to establish a local historic district, as proposed by HB 5232 and SB 720, petitioning of property owners and then mandating that the general electorate vote in favor of the district would be required. Unjustly, the reverse process—dissolving a local historic district—would not require such petitioning or voting, allowing local legislative bodies to eliminate a district without nationally accepted guidelines or justification, and without community input. Additionally, these bills severely jeopardize local historic districts in Michigan through their requirement that local historic districts be voted on every 10 years. Not only is such a process exceptionally inefficient, it would be costly to a local government in its dedication of staff time and community education efforts. This modification to PA 169, should it be amended through these bills, would clearly threaten all local historic districts statewide.

The bills' sponsors also believe that there is not enough flexibility in the current Standards local historic district commissions use. These Standards—the Secretary of the Interior's Standards for Rehabilitation—are the *gold*, national standard in historic preservation; they preserve historic materials and character-defining features while allowing for building adaptations, and they allow for replacement materials and they require that technical and economic feasibility be considered. They also establish Standards for reviewing new construction, including additions, in historic districts. The Standards do require that the homeowner repair before replace but if replacement is necessary, replacement materials may sometimes be appropriate. Each case is different and the local historic district commission is made up of local residents who apply the Standards, and local historic district design guidelines can be created now. It is important to note that the Standards are the same Standards the federal rehabilitation tax credit program uses, so when a developer is doing a rehab project in a local historic district where the federal tax credit is also being used, consistency in review is crucial. These Standards are used all over the country and have been for many years; they keep commissions' decisions consistent and defensible.

The current system is not broken and the changes these bills propose would not be fixes in any case. The amendments are so sweeping it appears that, if these bills pass in current form, federal funding for Michigan preservation projects through the Certified Local Government program—one of the VERY few grant programs for historic buildings—would be jeopardized. In Michigan, over 90% of applications for work in local historic districts are approved by commissions. There are less than 8 appeals per year in Michigan, on average, and this average is declining. The idea that voters need to vote again on an issue that their elected local legislative unit passed is inefficient, expensive, and unnecessary. And mandating a unit-wide election every 10 years to keep the districts the community has already passed is an expensive administrative wreck. It is unnecessary and cumbersome that the State should have to issue a sunset clause on local decisions.

House Bill 5232 and Senate Bill 720 should be resoundingly rejected. These bills would weaken protections for historic resources and threaten the viability of local historic districts in Michigan into the future. Our historic places and neighborhoods are too important.

Thank you,