

# The New Ontario Heritage Act...

## 2 years later



**Dan Schneider**  
**Ministry of Culture**  
**May 2007**

# Today's agenda...

- Bill 60 changes in force April 28, 2005
- Changes to the OHA since then
- What's happening with...
  - Listing?
  - Property designation?
  - District designation?
  - Demolitions?



# Changes to the OHA since Bill 60 (2005)

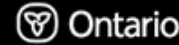
- **June 06** ⇒ **short-term protection for listed property**
  - Affects property listed on the municipal register under OHA s. 27
  - Owner must give the municipality 60 days notice of intention to demolish or remove a building on the property (OHA s-s. 27 (3))
- **Dec. 06** ⇒ **alternatives to newspaper notice for designation, etc.**
  - Optional -- Municipality can give public notice according to a policy adopted under the Municipal Act (OHA ss. 26, 39.1)
- Two other minor changes:
  - June 06 ⇒ loophole closed in Part V re appeal of interim control bylaws
  - Dec. 06 ⇒ 3 year term for CRB members abolished – now appointed for 5 year terms
- New regulations under the OHA:
  - Jan. 06 ⇒ municipal designation criteria (Reg. 9/06)  
provincial designation criteria (Reg. 10/06)

# What's happening with listing?

- Act permits municipal council to “list” properties that have not been designated on their register of heritage properties (s. 27)
  - ✓ council must believe properties are of cultural value or interest
  - ✓ consultation with municipal heritage committee required
  - ✓ description of property needed
  - ✓ no other process requirements – up to the municipality
- Listing has no legal consequences except now owner must give municipality 60 days notice of intention to demolish property
- Purpose of listing is to flag heritage properties that are of interest to the community and may be designated
- A number of municipalities have adopted such lists
- See Heritage Tool Kit and just released Info Sheet on listing

# New MCL InfoSheet on Listing

• InfoSheet •



## Listing Cultural Heritage Properties on the Municipal Register

Identifying properties of cultural heritage value is an essential part of municipal heritage conservation. This note explains the importance of listing heritage property on the municipal register in planning for and managing cultural heritage resources at the local level.

For more information, please call the Ministry of Culture at (416) 212-0644 or Toll Free at 1-866-454-0049.

Writer: 2007

Disponible en français

### What is the municipal register of cultural heritage properties?

Section 27 of the Ontario Heritage Act requires the clerk of every local municipality to keep a current, publicly accessible register of properties of cultural heritage value or interest situated in the municipality.

The municipal register is the official list or record of cultural heritage properties that have been identified as being important to the community.

The register must include all properties in the municipality that are designated under Part IV (individual designation) and Part V (district designation) of the Ontario Heritage Act. For properties designated under Part IV, the register must include:

- a) a legal description of the property;
- b) the name and address of the owner; and
- c) a statement explaining the cultural heritage value or interest of the property and a description of its heritage attributes.

For districts designated under Part V, the register must include a map or description of the area of each district.

As of 2005, the Ontario Heritage Act also allows municipalities to include on the municipal register properties of cultural heritage value that have not been designated. This is commonly known as "listing." See section 27 (1.2) of the Ontario Heritage Act.

Listing is a means to formally identify properties that may have cultural heritage value or interest to the community. It is an important tool in planning for their conservation and now provides a measure of interim protection.

### Why list property on the register?

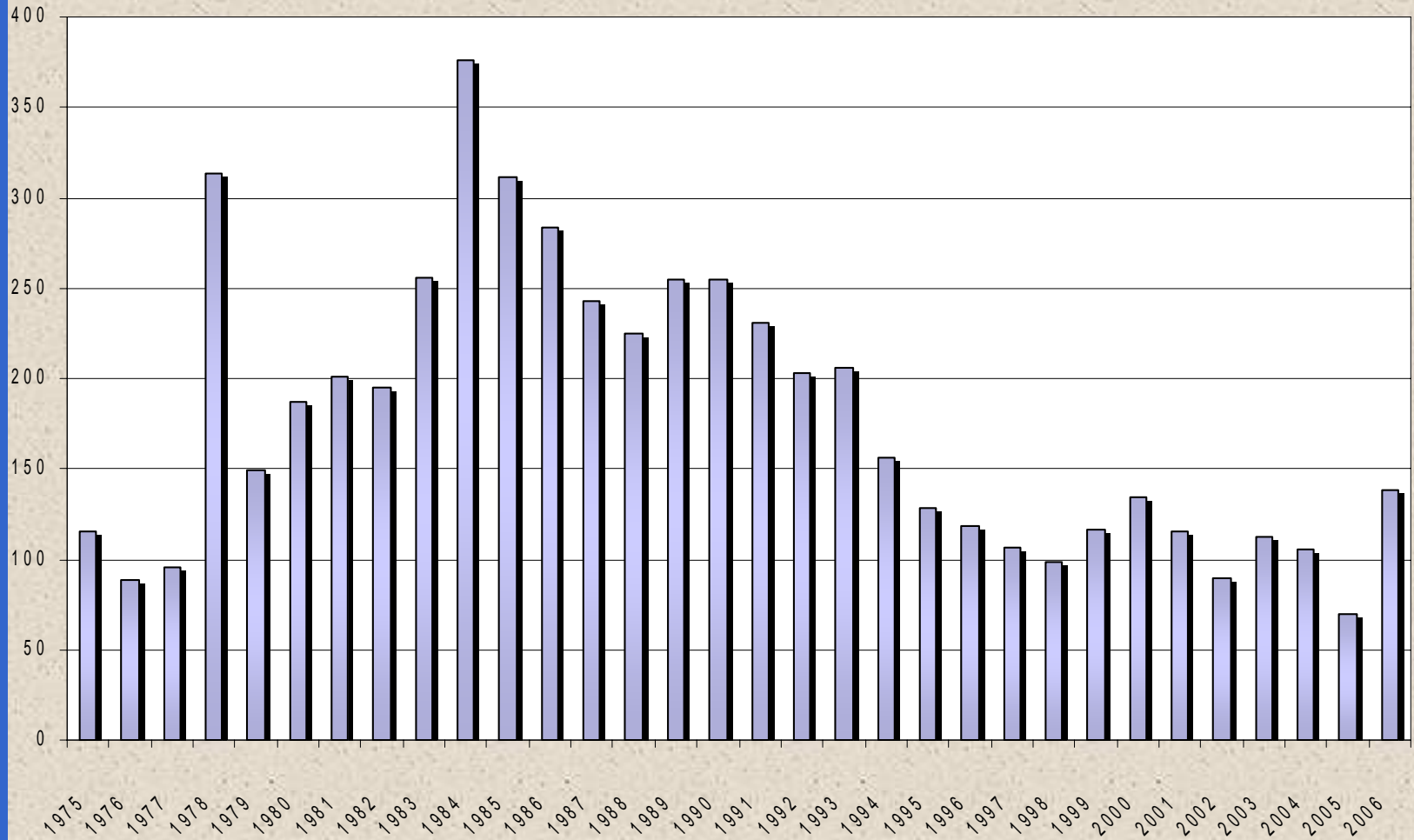
While the legislation does not require municipalities to list properties on the register, listing is strongly recommended. A complete list of register of cultural heritage properties, including both designated and listed properties, has the following benefits:

- The register recognizes properties of cultural heritage value in the community
- The register promotes knowledge and enhances an understanding of the community's cultural heritage
- The register is a planning document that would be consulted by municipal decision makers when reviewing development proposals or permit applications
- The register provides easily accessible information about cultural heritage properties for land-use planners, property owners, developers, the tourism industry, educators and the general public
- The register provides interim protection for listed property (see below)

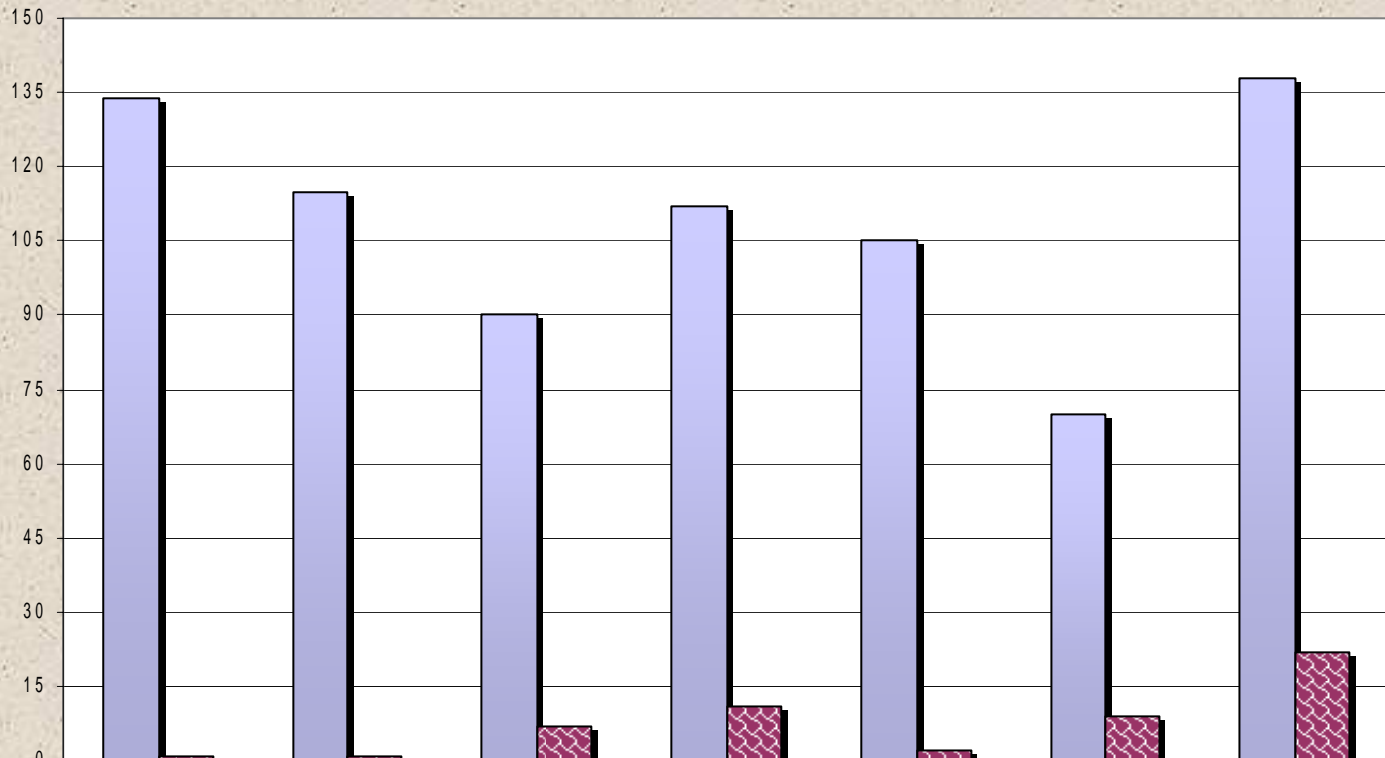
# What's happening with designation?



Properties Designated under Part IV (1975 - 2006)



## Properties Designated under Part IV and Conservation Review Board Referrals 2000 - 2006



	2000	2001	2002	2003	2004	2005	2006
Designations	134	115	90	112	105	70	138
Referrals to CRB	1	1	7	11	2	9	22

# What's happening with designation? (cont'd)


- What the numbers show:
  - ✓ Individual designation activity seems to have recovered and is picking up
  - ✓ Number of referrals to CRB is way up this year
  - ✓ Number of HCDs up too (now 85+; 5 last year)
  - ✓ Activity still heavily focussed in GTA
  
- Designation improvements:
  - ✓ New criteria regulation put in place Jan. 06
  - ✓ CRB using these in reviewing designations
  - ✓ Concern about old/inconsistent terminology in bylaws – especially re “heritage attributes”
  - ✓ Ontario Heritage Tool Kit and new Ministry Info Sheet on designation bylaws

# Designation criteria for heritage value or interest

(from Ontario Regulation 9/06)

1. The property has **design value or physical value** because it,
  - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
  - ii. displays a high degree of craftsmanship or artistic merit, or
  - iii. demonstrates a high degree of technical or scientific achievement.
  
2. The property has **historical value or associative value** because it,
  - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
  - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
  - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
  
3. The property has **contextual value** because it,
  - i. is important in defining, maintaining or supporting the character of an area,
  - ii. is physically, functionally, visually or historically linked to its surroundings, or
  - iii. is a landmark.

# Coming soon...new MCL InfoSheet on Provincial Powers to Conserve Property

• InfoSheet • 

## Ontario Heritage Act, Part IV: Provincial Powers to Conserve Property of Cultural Heritage Value or Interest of Provincial Significance

In 2005, changes to the Ontario Heritage Act gave the province a stronger role in the conservation of cultural heritage property.

As a result of these changes the Act now enables the Minister of Culture, in consultation with the Ontario Heritage Trust, to designate property of provincial significance and to prohibit the demolition or removal of a building or structure on designated heritage property of provincial significance. The Act also enables the minister to issue a stop order with respect to any property to prevent alteration, damage, or demolition or removal of any building or structure on the property, if the minister is of the opinion that the property may be of provincial significance.

For more information on provincial powers, please contact the Ministry of Culture at (416) 212-0644 or Toll Free at 1-866-454-0049 or [info.mcl@ontario.ca](mailto:info.mcl@ontario.ca).

Summer 2007  
*Disponible en français*

### FAQs

**When will provincial designation and stop order powers be used?**

Under the Ontario Heritage Act and Ontario Regulation 10/06, provincial designation is available only if a property is determined to be provincially significant or is located in parts of the province where there is no incorporated municipality (also known as unorganized territory) and the Minister determines that there is a provincial interest in designating the property.

The Ontario Heritage Act gives all lower tier municipalities the tools they need to identify and protect heritage property should they choose to use them. For more information on the Ontario Heritage Act, see the Ontario Heritage Tool Kit at <http://www.culture.gov.on.ca/english/culd/heritage/Toolkit/toolkit.htm>

The primary responsibility to identify and protect cultural heritage property continues to rest with the municipality. Provincial designation and stop order powers are not substitutes for lack of action at the local level.

**What makes a cultural heritage property provincially significant?**

To be considered provincially significant, properties must meet specific provincial significance criteria set out in Ontario Regulation 10/06. Ontario Regulation 10/06 is available at [http://www.e-laws.gov.on.ca/DBLaws/Regs/English/060010\\_e.htm](http://www.e-laws.gov.on.ca/DBLaws/Regs/English/060010_e.htm).

**How is provincial significance determined?**

Under the Act, the Minister of Culture is required to consult with the Ontario Heritage Trust, an agency of the Ministry of Culture to determine provincial significance. The Ontario Heritage Trust applies the criteria for provincial significance set out in Ontario Regulation 10/06 to evaluate provincial significance based on thorough historical research and site analysis. The Ontario Heritage Trust then advises the Minister of Culture on provincial significance.

Page 1 of 2

# What about provincial designation?

- Minister of Culture has power to designate property of provincial significance and issue stop orders
- OHA Regulation 10/06 sets criteria that must be met
- Minister must consult with Ontario Heritage Trust
- Reserve power
- First provincial designation underway
- Qs and As on provincial designation being developed



# What's happening with demolitions?



How does this....



...still end in this?



# What's happening with demolitions? (cont'd)

6 demolition scenarios:

1. building not designated
2. owner illegally demolished the building
3. demolition by neglect
4. municipality ordered demolition of unsafe building
5. municipality refused the demolition but OMB approved it
6. municipality approved the demolition

# 1. Building not designated

How to address?

- Get it listed!
- 60 day interim protection will kick in
- 60 days to decide whether to designate or not
- Once notice of intention to designate is served, designation controls kick in
- **Consult Heritage Tool Kit and Listing Info Sheet**



## 2. Owner illegally demolishes the building

How to address?

- Important to enforce OHA and prosecute for violations
- OHA provides for fines of up to \$1 million and up to one year imprisonment for illegal demolitions



### 3. Demolition by neglect

How to address?

- OHA enables municipalities to enact bylaws setting minimum maintenance standards for designated property; piggybacks on property standards bylaws
- Several municipalities have used this power or are considering it
- Why court struck down St. Thomas bylaw
- Importance of heritage attributes



## 4. Municipality orders demolition of unsafe building

How to address?

- Chief Building Official has major powers under Building Code Act that could override OHA
- Want to avoid head-to-head between heritage preservation and public safety
- Need for municipality to have a policy on what to do in emergency situations



## 5. Municipality refuses but OMB approves demolition

How to address?

- Still early days
- Two current OMB cases:
  - Bronte Quadrangle, Oakville
  - Alma College
- Experience with Conservation Review Board cross-appointments to OMB



## 6. Municipality approves the demolition

How to address?

- Make the case for saying no!
- Need to anticipate and counter pro-demolition arguments: not feasible, too costly, no use, intensification (!), etc.
- MHC (advising council) compared to ACO (lobbying council) – may need both
- Need strong OP policies on heritage
- Effective designation bylaws
- What incentives can be brought to bear?
- Check out new MCL presentation template: “Supporting Heritage in Your Community”

SUPPORTING  
HERITAGE IN  
YOUR COMMUNITY

SOUTIEN DU  
PATRIMOINE  
COMMUNAUTAIRE



More information at [www.culture.gov.on.ca](http://www.culture.gov.on.ca)

