

Memorandum



DATE: November 21, 2008

TO: Members of the Public Safety Committee

SUBJECT: **Certificates for Demolition in Historic Districts and other Demolitions of Substandard Structures**

Attached is briefing material on the "Certificates for Demolition in Historic Districts and other Demolitions of Substandard Structures" to be presented to the Members of the Public Safety Committee on Monday, December 1, 2008.



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Attachment



Certifications for Demolition in Historic Districts and other Demolitions of Substandard Structures

Public Safety Committee
Briefing

December 1, 2008





104 S. Edgefield

Single-family structure. City filed lawsuit on 10/4/07. Court signed agreed demolition order on 11/13/07. Landmark Commission denied application on 3/3/08. Owner re-filed application. Landmark Commission granted Certificate of Demolition on 9/8/08.

Background

- City staff briefed Public Safety Committee in August 4, 2008 to seek direction on revisions to the current demolition procedures.



Background

- 2 important considerations
 - Demolition of historic structures is an irreplaceable loss to the architectural integrity of a neighborhood
 - Dilapidated structures pose a significant public safety threat to neighborhood residents and others



Background

- In past 5 years, CAO and property owners have filed **37 applications for certifications of demolition with the Landmark Commission** involving 30 structures in cases where the CAO obtained demolition order
- Of the 37 applications, **Landmark Commission denied 10 and postponed 2**
- **0 structures have been repaired as result of denial or postponement**
- Of 10 denials, CAO and property owners have re-filed 6 applications because structure's condition did not improve
- Landmark Commission approved all 6 applications that were re-filed
- CAO will soon renew request for demolition in other 4 cases

Background

- Challenge is crafting a demolition ordinance that allows removal of dangerous structures within a reasonable timeframe, yet does not promote unnecessary loss to the historic fabric of our architectural heritage





Background

- Committee directed staff to meet with Landmark Commission to discuss the ordinance changes
- Landmark Commission appointed a task force to deliberate on changes
- Task Force met 5 times
- Landmark Commission considered ordinance changes on October 6
- City Attorney's Office consulted with the Landmark Commission 4 times

Current ordinance

- When applicant asserts structure is imminent threat to public health or safety, applicant must obtain engineer's or architect's report that states:
 - Nature, imminence, and severity of threat
 - Cost and feasibility of restoration
- Landmark Commission may deny proposed demolition even if no one wants to rehab structure

Problems with existing ordinance

- Process is costly
 - Each engineering report costs between \$5,000 - \$6,000
- Process is time-consuming
 - Each engineering report usually takes 3-8 months
- Process sometimes perpetuates blight
 - Denials and delays often occur due to ordinance designed to evaluate demolitions sought by private owners even though structure had not been declared urban nuisance



Proposed Ordinance Provisions

- Creates a new category of demolitions that designates “court-ordered” demolition initiated by the city
- Allows either the City or the property owner to initiate a certificate of demolition
- Eliminates requirement for engineering or architect’s report for these structures
- Establishes application criteria
- Public hearing is conducted within a defined period
- Establishes decision-making criteria for the Landmark Commission
- Creates presumption that demolition should be approved



Proposed Ordinance Provisions (cont.)

- Establishes a 'suspension' period that allows for interested party to renovate the structure
- Requires persons rehabbing structures to make reasonable and continuous progress
- Allows staff to file quicker appeals to CPC
 - Hearing will be limited to same evidence reviewed by Landmark Commission
 - No requirement to obtain transcript of Landmark Commission's hearing, which is costly and time-consuming
- Grants authority to the Fire Marshal to order demolition of a structure, without Landmark approval, if a clear and imminent threat exists



Update on Progress

- City Attorney's Office and Historic Preservation staff has made good progress in researching and understanding the elements of the ordinance
- Landmark Commission has worked diligently to construct a new process that meets the objectives of addressing public safety concerns while maintaining historic preservation principles and goals



Benefits of this Change

- Speeds up the process for eliminating burned out/collapsed structures
- Provides adequate review of the need to demolish historic properties
- Improves the quality of life and public health and safety in our neighborhoods

Other ways demolition process has been improved

- New Judge is now hearing 25 cases per month (up from 20)
- Council recently approved hiring of additional demolition contractors

Other ideas to improve demolition process

- Proposed amendment to state law regarding notice to property owner:

- Current version of 214.001(r) of Texas Local Government Code:

When a municipality mails a notice . . . to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.

- Proposed amendment:

When a municipality mails a notice in accordance . . . to a property owner, lienholder, or mortgagee, service is complete upon deposit of the notice in a post office or official depository under the care and custody of the United States Postal Service. Sworn testimony of any person showing that the notice was deposited in the United States mail addressed to the property owner, lienholder or mortgage, shall be prima facie evidence of the fact of service.

Other ideas to improve demolition process

- New Judge has expressed interest in hearing more cases if there is a backlog
 - CAO can now handle additional docket if there are enough referrals to warrant another docket
 - There is not a backlog currently
- Amend Chapter 27 of Dallas City Code to allow City to appeal municipal court's denial of demolition to district court
 - Current ordinance only allows owner, mortgagee or lienholder to appeal municipal court's ruling
 - Change would result in more demolitions

QUESTIONS?

