

Memorandum



CITY OF DALLAS

Date: June 4, 2010

To: Housing Committee Members: Steve Salazar, Chair, Carolyn R. Davis, Vice Chair, Tennell Atkins, Dwaine Caraway, Angela Hunt, Ann Margolin, Pauline Medrano

Subject: Demolition Process for Urban Nuisances in Existing and Proposed Historic Districts

On Monday, June 7, the Housing Committee will be briefed on the "Demolition of Historic Structures Pursuant to a Court Order". A copy of the briefing material is attached.

If you need further information please call Theresa O'Donnell at 214 670-4127.

A handwritten signature in black ink, appearing to read 'A.C. Gonzalez', written over a circular stamp or mark.

A.C. Gonzalez
Assistant City Manager

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Thomas Perkins, City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
Forest Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Theresa O'Donnell, Director Sustainable Development & Construction
Jerry Killingsworth, Director, Housing/Community Services
Helena Stevens-Thompson, Assistant to the City Manager



Demolition Process for Urban Nuisances in Existing and Proposed Historic Districts

Housing Committee Briefing
June 7, 2010





Background

- In spring of 2008, Mayor Pro Tem Caraway and Councilmember Davis requested that the City Attorney's Office work with Code Enforcement, Development Services and the Fire Marshal to strengthen the City's ability to abate and remove dangerous and blighted structures from our historic neighborhoods.



Background

- Landmark Commission held 6 ad-hoc committee meetings and 7 public hearings / briefings on proposed ordinance changes.
- ZOAC held 2 meetings
- CPC recommended ordinance revisions in October of 2009.
- Public Safety Committee has had 4 separate briefings on this matter.
- On May 26th, City Council referred this item to the Housing Committee.



Balancing 2 worthy goals

- Neighborhood Protection and Ensuring Public Safety
 - Dilapidated structures pose a significant public safety threat to neighborhood residents and citizens
- Demolition of structures that may create a loss to the architectural fabric of an historic neighborhood



Current Ordinance

- Current demolition regulations only address the situation when a private property owner desires to demolish an historic structure.
- Current demolition regulations do not address city-initiated, court-ordered demolitions for a dilapidated and dangerous structure that pose a public safety threat

Structures currently in litigation



Structures currently in litigation





Necessity of a New Ordinance for Public Safety

- Only dilapidated and dangerous structures that pose a significant public safety threat to the neighborhood are the focus of this new ordinance process
- This new ordinance process can only be used for City-initiated, Court-ordered demolitions.

Example #1



104 S. Edgefield

City filed lawsuit on 10/4/07. Court signed agreed demolition order on 11/13/07. Owner requested demolition. Landmark Commission denied application on 3/3/08 due to incomplete engineering report. Owner re-filed application after obtaining engineering report. Landmark Commission approved demolition on 9/8/08.

Example #2



2807 Tanner

City filed lawsuit on 8/10/07. Court signed agreed order for demolition on 1/8/08. City filed request for demolition with Landmark Commission 10/2/08. At hearing on 11/3/08, Commission held case for 30 days. Denied CD without prejudice on 12/1/08. Preservation Dallas tried to work with owner. Application for CD re-filed 3/4/10. Preservation Dallas determined property not viable to save. Commission approved demolition on 4/5/10.



New Process for Court Ordered Demolitions

- Creates a new category of “court-ordered” demolitions
- Specifically for structures in Historic Districts that have been ordered demolished by a Judge
- Allows either the City or the property owner to request a certificate of demolition



New Process for Court Ordered Demolitions

- Establishes application criteria
- Establishes timeline to ensure Landmark Commission holds public hearing within reasonable period
- Establishes standard for approval for the Landmark Commission
- Creates presumption that demolition should be approved



New Process for Court Ordered Demolitions

- Establishes 2 different grace periods that allow an interested party to renovate the structure
- Requires the person repairing structure to make reasonable and continuous progress



New Process for Court Ordered Demolitions

- Allows expedited appeals to CPC
 - Hearing will be limited to same evidence reviewed by Landmark Commission
 - CPC may not consider new evidence unless it corrects misstatements or material omissions or involves changed conditions
- Clarifies that Fire Marshal has authority to demolish a structure, without Landmark Commission approval, if conditions are hazardous to life and property



Three outstanding issues

- Should this new process be available for use by the City Attorney's Office for all unsafe and dangerous properties that are city-initiated, court ordered demolitions?
- Should deference be given to the court order or to the Landmark Commission decision in appeals to the CPC?
- Should the Fire Marshal's current authority to order the immediate demolition of dangerous and unsafe structures that are hazardous to life and property be restricted?



Should Council limit the use of this new tool?

- City Plan Commission recommended this process *only* be used for residential structures 3000 s.f. or less. The City Attorney's Office could *not* use this process on non-residential properties or large residential properties
- Public Safety Committee recommended this new process should be available for the City Attorney's Office to use for any city-initiated, court ordered demolition.



Concerns with CPC Recommendation

Non-residential structures and all structures larger than 3000 s.f. will fall under old regulations. Problems that created the need for new process are left unaddressed. These problems are significant.

- Landmark Commission can continue to deny demolition permits even if no one is interested in saving the property.
- The City must pay for expensive and time consuming engineering studies are required.
- The blight and public safety hazards created in neighborhoods by these dangerous and dilapidated structures is perpetuated when Landmark Commission denies the demolition certificate.
- The Neighborhood has no certainty that the dangerous condition will be remedied.



Court Ordered Demolitions

- Staff has recommended that large residential structures and non-residential structures fall under the new process that has benchmarks and timeframes that -
- Establish reasonable timeframes:
 - Historic preservation advocates have up to 4 months to find an interested party to restore the structure.
 - Person seeking to restore structure have up to 8 months to prepare a plan, and
 - Make reasonable and continuous progress on the restoration of the structure
- This new process gives the neighborhood predictability that the structure can and will be saved or an understanding of when the City may demolish the structure



Second outstanding issue

- Should cases on appeal to the CPC give deference to Municipal Court Order or to the Landmark Commission decision?
 - City Plan Commission recommends that deference should be given to the Landmark Commission decision instead of the Judge's order
 - Public Safety Committee recommended that deference be given to the Judge's order



Third outstanding issue

Currently, the Fire Marshal has the authority to *“abate summarily such hazardous conditions that are in violation of the code”* when *“conditions exist that are deemed hazardous to life and property”*

- City Plan Commission recommended removing this authority from the Fire Marshal for all historic structures except small residential buildings.
- Public Safety Committee recommended that the Fire Marshal did not need to obtain Landmark Commission approval to demolish any historic structure when hazardous conditions exist.



In Summary

- There are three outstanding issues for the City Council to consider.
- After 4 briefings and lengthy discussion the City Council Committee on Public Safety Committee made the following recommendations on each of these issues -



Public Safety Committee Recommendation

- This new process be available for the City Attorney's office to use on any City-initiated, Court Ordered Demolition of a dilapidated and dangerous structure to protect the neighborhood and ensure public safety.
- That deference be given to a Judge's order in cases on appeal to the City Planning Commission
- Clarifies that the Fire Marshal may demolish historic structures when hazardous conditions exist without obtaining Landmark Commission approval.

QUESTIONS?



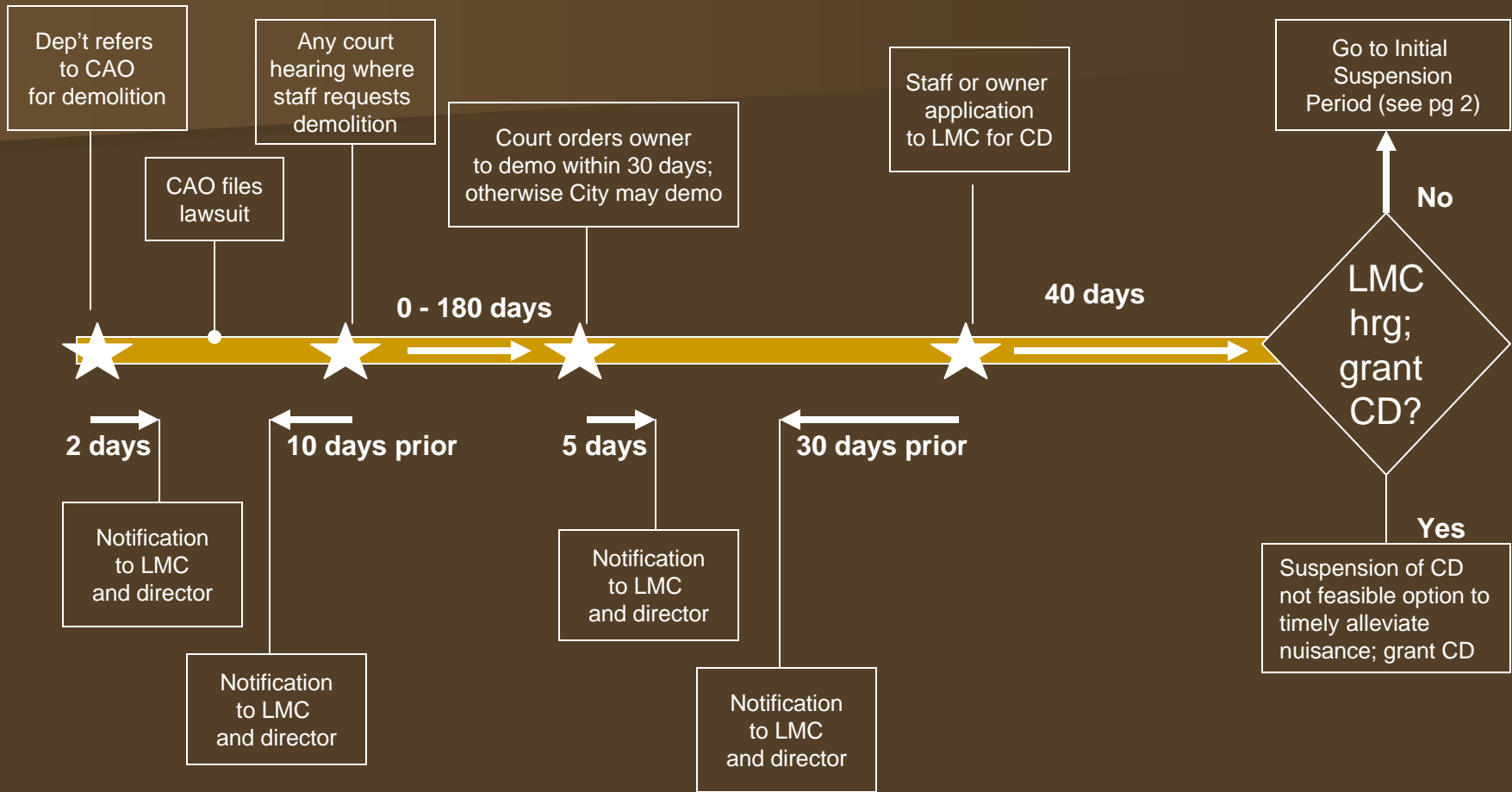
Appendix

- Past demolitions of urban nuisances in historic districts
- Timeline for Certificate of Demolition
- Q & A

Past demolitions of urban nuisances in historic districts

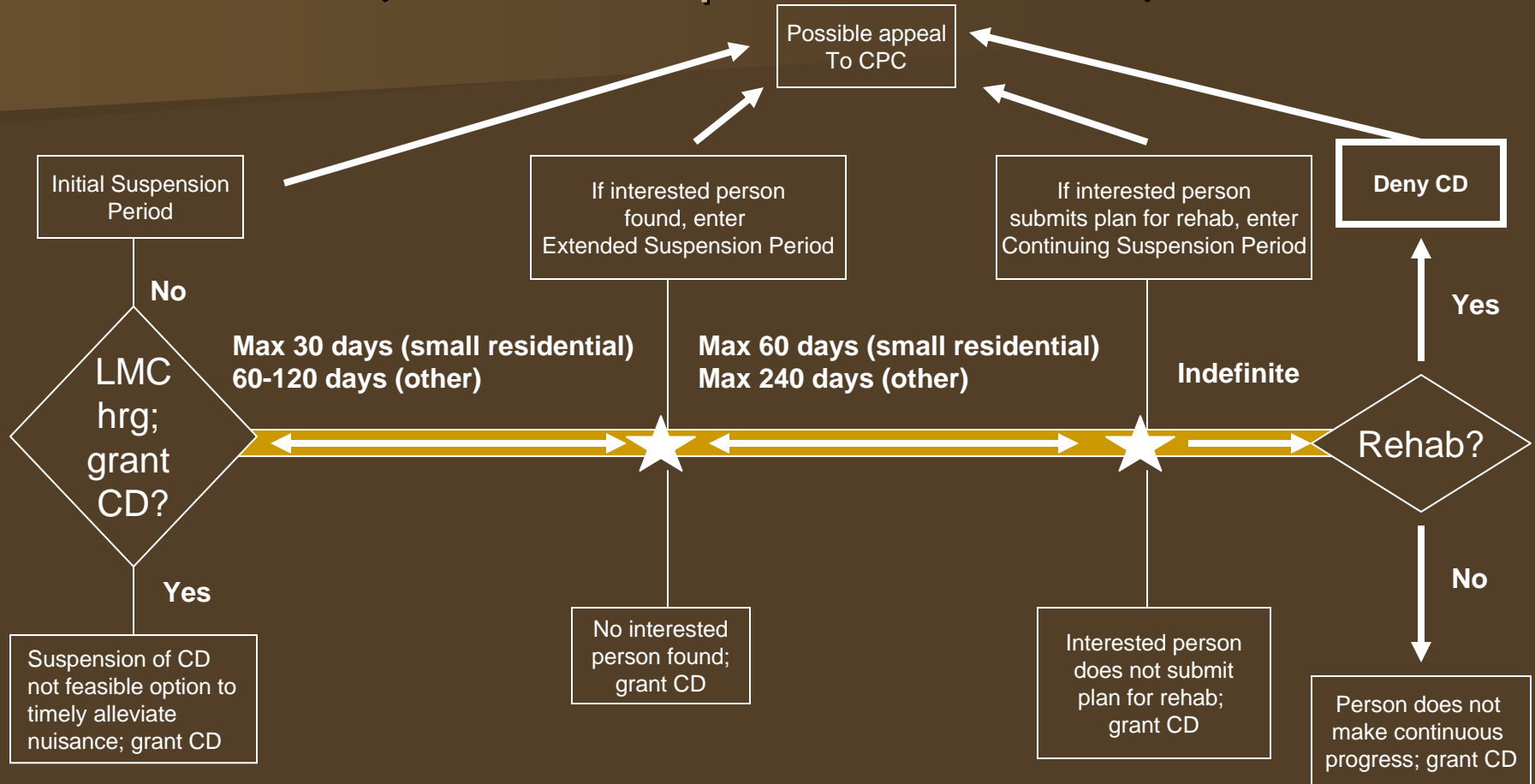
- In past 6 years, City has demolished roughly 1,200 structures citywide
- CAO and property owners have filed 43 applications for certifications of demolition with the Landmark Commission involving 35 structures in cases where City obtained demolition order
- Of the 43 applications, Landmark Commission has denied 13
- Landmark Commission has thereafter approved 10 of 13 applications
- Staff is re-evaluating need to demolish remaining 3 structures
- Staff will soon file more requests to demolish to Landmark Commission
- **None of the 35 structures** have been brought up to code

Timeline for Certificate of Demolition (CD) (Part 1: Referral to Landmark Comm'n)



Footnote: These timelines would exist under the Public Safety Committee recommendation. They are not in the current ordinance.

Timeline for Certificate of Demolition (CD) (Part 2: Suspension Periods)



Footnote: These timelines would exist under the Public Safety Committee recommendation. They are not in the current ordinance.

Q & A

Q: Was the CPC recommendation unanimous?

A: No. The final vote at CPC was split 7 to 5.

Q: Were the CPC recommendation and the Landmark Commission recommendation the same?

A: No. Landmark Commission, Preservation Dallas and Staff had come to consensus before the CPC recommendation

Q: Does this new process cut the Landmark Commission out of the process?

A: No. Landmark Commission and Municipal Court will review all requests for demolition except for Fire Marshal orders

Q & A

Q: Will every building with a code violation now be at risk of demolition?

A: No. Landmark Commission and Municipal Court will review all requests for demolition except for Fire Marshal orders

Q: Does the CPC recommendation limit the Fire Marshal's current authority

A: Yes. CPC recommendation would limit the Fire Marshal's authority by requiring Landmark Commission approval to demolish any historic structure other than small residential structures.

Q: Would this new process have allowed the demolition of important landmark structures such as: 6015 Bryan Parkway, 4949 Swiss, Crozier Tech, Statler Hilton, or East Dallas YMCA

A: No. None of these structures were ever the subject of a court-ordered demolition. This process can only be used for city-initiated, court-ordered demolitions.

Q & A

Q: Have Historic Preservation Advocates been successful in saving endangered buildings?

A: Yes and No. Preservationist have enjoyed many high profile successes in Dallas. However, not a single structure that has been the subject of a Court-ordered demolition structure has ever been saved despite years of delay.

Q: Isn't this a relatively small number of properties?

A: Yes. Over the past 6 years, the City Attorney's Office has sought Court-ordered demolitions on 34 historic structures. Of these, Landmark Commission denied 12 cases. Those properties continued to decline and become more dangerous. None of 34 historic structures were saved by preservationists.

Q: Has staff introduced "last minute" changes?

A: No. Staff's position has remained the same since the consensus was reached with the Landmark Commission in October of 2009.