



Article 85 Demolition Delay Review Regulations **Adopted by the Boston Landmarks Commission on October 13, 2009**

Regulations regarding the administration of Demolition Delay Review as allowed under Article 85 of Chapter 665 of the Acts of 1956 as Amended; Section 6: Regulations

Article 85-Section 85-6 Regulations

The Landmarks Commission may promulgate regulations to administer this Article.

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Article 85-6.1Application for Article 85: Demolition Delay

Any person seeking to demolish a property that qualifies for review under Article 85-3, “Buildings Subject to Review” (Demolition Delay), Chapter 665 of the Acts of 1956 by the Boston Landmarks Commission, shall file an application for Demolition Delay with the Commission.

Such application will be filed at the offices of the Commission with the Secretary to the Commission. Property owners (or their authorized agents) must sign each application and have this signature notarized, and provide proof of ownership. Applications from a condominium building must have a signature representing an endorsement from the chairman, trustees (or managing board), and must provide documentation of this authority.

The applicant shall use an application form provided by the Commission for the purpose. The application generally requires the following information:

1. The property name (if any) and the address.
2. The name and address of the owner.
3. The name and address of the applicant, if other than the owner.
4. A written description of all proposed work.
5. Photos of building.
6. A map and plot plan of the building.
7. Plans, site plans, and elevations of any improvements planned for the site.

If a hearing is required, additional documentation as requested in the notification of a hearing to the applicant, including documentation of a community meeting about the proposed demolition may be required (see section 85-6.3.2, section 85-6.4, and section 85-6.5). The Commission or the staff of the Commission may refuse to accept an application if sufficient documentation has not been provided. Such applications will be returned to the applicant without review.

85-6.1.1Processing of the Application

See Article 85 of Chapter 665 of the Acts of 1956 as Amended; Section 5: Procedure.

Article 85-6.2Staff Determination

The staff shall issue a written notice of its determination for each application and include information to the applicant as to whether the building is subject to review and whether the building is significant and requires a hearing as stated in Section 85-5-2. If a hearing is required, this notice of determination will include the following:

1. The date of the hearing.
2. A list of the criteria met by the building for which it is considered significant.
3. Information about any documentation used by the BLC in making its determination, if available.
4. A request for any additional documentation needed for the public hearing.
5. Instructions for holding a community meeting required for all applicants that qualify for a public hearing (see 85-6.3.2).

Article 85-6.3Public Hearing on Applications for Article 85 Demolition Delay

The Commission shall hold a public hearing on every application determined in accordance with Article 85 to be significant and to require a public hearing.

85-6.3.1Notice

The Commission shall give ten days notice of such hearings following the notification requirements to:

1. Members and Alternates of the Commission
2. The City Clerk (to be posted in the office thereof)

3. Applicants
4. Owners of abutting properties as listed in the most recent tax list
5. The Mayor
6. The Boston Redevelopment Authority
7. The Inspectional Services Department
8. Any person (or organization) requesting notice of such hearing.

The notice of the hearing will contain the following information:

1. Date, time, and place of the hearing
2. List of applications to be heard, including address of applicant and précis of proposed work
3. Notice that applications are available for review at the offices of the Commission.

85-6.3.2

Community Meeting Requirements for Article 85 Applications Requiring a Hearing

For applications required to go to a public hearing of the Commission, applicants are required to hold a community meeting prior to the public hearing. The applicant shall follow guidelines for the notification, content, and documentation of the meeting as specified in instruction materials adopted by the Commission (See Article 85 Community Meeting Requirements, adopted 10-13-09).

Article 85-6.4

Conduct of the Hearing, Part I

The hearing may be conducted by the chairman or vice-chair or another commissioner; such person shall be considered to be the Presiding Officer for the purpose of the hearing.

Hearings will normally be held in City Hall at the regular meeting of the Boston Landmarks Commission. The Presiding Officer shall open each hearing by reading a statement which identifies the purpose of the review and establishes an appropriate forum for proceedings by a public body.

Applications will be heard in the order given in the agenda and will not be heard earlier than the time posted on the agenda. The Presiding Officer will introduce the application, and then ask for staff's findings about the building, including its significance. The Presiding Officer will then ask the applicant to present any information that will assist the Commission in determining whether the building is subject to Demolition Delay, including:

1. The building's historic, architectural, and urban design significance, including whether the building is among the last remaining example of its kind in the area
2. Any information about the condition of the building
3. Documentation of the community meeting (see 85-6.3.2 above, and Article 85 Community Meeting Requirements, adopted 10-13-09).

Any member of the public, in order of recognition by the Presiding Officer, may then speak on the application. The Presiding Officer may, at his or her discretion, change any procedure for conduct of hearings, provided all persons affected by the application have a fair opportunity to be heard. The chairman may also impose a time limit on testimony.

If at this time, the Commission determines that sufficient documentation has not been submitted, the Commission may choose to take no action in response to an incomplete application. If Demolition Delay is not initiated, the hearing must be rescheduled. The applicant shall submit a hearing extension form providing a new date, understanding that the missing documentation will be required in advance of the new hearing date.

Article 85-6.5

Consideration by the Commission

Following part I of the public hearing and any additional staff comments, the Presiding Officer will entertain a motion regarding Demolition Delay.

85-6.5.1 No Demolition Delay Invoked

If, after reviewing the complete application and documentation, the Commission determines that the property is not subject to Demolition Delay, no motion will be made and no vote taken. No further review is required.

85-6.5.2 Demolition Delay Invoked

If, after reviewing the complete application and documentation, the Commission determines that the property is subject to Demolition Delay, the Delay will be invoked, and the Presiding Officer will introduce Part II of the hearing.

Article 85-6.5

Conduct of the Hearing, Part II

The Presiding Officer will introduce Part II of the hearing, and then ask the applicant to present any information that will help the Commission to determine that there is no feasible alternative to demolition. The Demolition Delay will not be waived unless appropriate documentation is presented, including the following:

1. A licensed structural engineer's report documenting the structural condition of the property, if physical condition is cited as the reason for demolition. Included with this should be photos illustrating structural damage and physical deterioration.
2. Alternatives to demolition taken into consideration by the applicant, such as the restoration of the property, moving the property, or incorporation of the property into the proposed project, and a feasibility study illustrating why these alternatives are not feasible.

Any member of the public, in order of recognition by the Presiding Officer, may then speak on the application. The Presiding Officer may, at his or her discretion, change any procedure for conduct of hearings, provided all persons affected by the application have a fair opportunity to be heard. The chairman may also impose a time limit on testimony.

85-6.5.1 Waiver of Demolition Delay

If the Commission determines that there is no feasible alternative to demolition, they may vote to waive the Demolition Delay, authorizing the Commissioner of Inspectional Services to issue a demolition permit. The Commission may also waive the demolition delay subject to certain provisos pertaining to changes in the proposed project, submittal of additional information, subsequent design review of elements of the proposed work, or timing of the demolition and new construction.