



Article 85 Demolition Delay Review Regulations

Adopted by the Boston Landmarks Commission on October 13, 2009; Updated November 9, 2021.

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 6: Regulations

The Landmarks Commission may promulgate regulations to administer this Article.

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Section 85-6.1 Application for Article 85: Demolition Delay

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

Such application will be filed with Landmarks Commission staff. 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.

Landmarks Commission staff cannot be responsible for verifying the authority of any of the above individuals to sign the application. Misrepresenting signatory authority may result in the invalidation of the application.

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, including zip code.
2. The name, address and contact information including email of the owner.
3. The name, address and contact information including email of the applicant, if other than the owner.
4. A written description of the structure proposed for demolition and all proposed plans for the property.
5. Photos of the structure, keyed to a map.
6. A map and plot plan of the building.
7. Plans, site plans, and elevations of any improvements proposed for the site.

Commission staff will determine whether an application is complete. If sufficient documentation has not been provided, staff will request that the applicant provide what is required. When the required documentation has been provided the application is complete.

85-6.1.1 Processing of the Application

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

Section 85-6.2 Staff Determination

Staff shall issue a written notice of its determination for each application and include information to the applicant as to whether or not the building is subject to review. If the building is **determined not significant** under Article 85, the applicant and the Inspectional Services Department will receive notice that a demolition permit can be issued.

If the building is **determined to be significant**, a public hearing is required as stated in Section 85-5-2.

This notice of Preliminary Determination will include the following:

1. The tentative scheduled date of the Landmarks Commission public 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 additional documentation needed for the public hearing.
5. Instructions for holding a community meeting required for all applicants that must attend a public BLC hearing (see 85-6.3.2).

Additional information will be included in the notification of Preliminary Determination:

6. An extension form for the applicant to sign and return
7. Documentation of a community meeting as required (see section 85-6.3.2, section 85-6.4, and section 85-6.5).
8. Examples of alternatives to demolition

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

The Commission shall hold a public hearing within 40 days of the date the application was determined to be complete by Commission staff for every application determined in accordance with Article 85 to be significant and to require a public hearing.

85-6.3.1 Notice

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 Planning and Development Agency
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 summary of proposed work
3. Notice that applications are available upon request to BLC@boston.gov.

85-6.3.2 Community Meeting Requirements for 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 Attachment: Article 85 Community Meeting Requirements, adopted 10-13-2009).

Section 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 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. The Presiding Officer will introduce the application, and then ask staff to review the documentation of the community meeting (see 85-6.3.2 above, and Article 85 Community Meeting Requirements, adopted 10-13-09). If Article 85 community meeting requirements have not been met, the hearing will be postponed.

The Presiding Officer will then ask for staff's findings regarding significance of the building. The applicant will be asked 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

Any member of the public, in order of recognition by the Presiding Officer, may 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.

Section 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.

Section 85-6.6 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.

85-6.6.1 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.

For Article 85 Information and Instructions, visit the website at: boston.gov/landmarks

Article 85 Questions? Contact Landmarks staff BLC@boston.gov

Article 85 Community Meeting Requirements (Adopted 10/13/2009)

The property in question has been determined “significant,” as described by the Article 85 zoning code, and has therefore been scheduled for a public hearing before the Boston Landmarks Commission.

Prior to the hearing, the applicant shall conduct a community meeting, open to the public, at which the applicant shall meet the requirements outlined below for notification, content, and documentation of the meeting.

Notification Requirements:

Note: Scheduling of community meeting and procedures for notification shall be coordinated with the Mayor’s Office of Neighborhood Services (MONS).

- Notice of the community meeting must be distributed at least seven (7) days prior to the meeting, not including Sundays and holidays.
- Notice must be distributed in the form of a flyer (template to be provided by MONS) to properties within a 500 foot radius of the property.
 - *Where a flyer notification method and/or a 500 foot radius distribution area is not practical, MONS may determine in consultation with BLC staff that another method or distribution area is acceptable.*
- Notice must be distributed via email (email list to be provided by Commission staff and/or MONS) to interested community groups, historical societies, preservation groups, elected officials, and other interested parties.
- When feasible, notice should be posted on or directly in front of the property proposed for demolition.

Meeting Content Requirements:

- The applicant shall read aloud the community meeting notice statement (see enclosed) and the BLC letter giving notification that a hearing is required.
- The applicant shall present photographs of the property proposed for demolition, illustrating the property, its condition, and its surroundings.
- The applicant shall present any historical information available on the property, including that provided by BLC staff, and that found by reviewing ISD permits for the property, such as the date of construction, original or later uses, alterations, etc.

- The applicant shall present information on the condition of the property, including how long it has been vacant if applicable, photographs of damage or deterioration, copies of violation notices from ISD, etc. **If the structural condition of the building is cited as the reason for demolition, a structural engineer's report is required.**
- **The applicant shall present BLC staff-approved alternatives to the demolition of the property, including rehabilitation and/or incorporation of the building into the proposed project.**
 - *The presentation of alternatives may include conceptual design studies, cost studies, programmatic studies and/or other information, as appropriate.*
- The applicant shall provide an opportunity for anyone attending the meeting, including individuals, representatives of neighborhood organizations, historical societies, preservation organizations, and elected officials to share additional information contributing to the history and significance of the property.
- After discussing the condition of the building and alternatives to demolition, the applicant may discuss the proposed development.
- The applicant shall include a question-and-answer session, responding to all interested parties.

Meeting Documentation Requirements:

The following must be submitted to the Commission at least 24 hours in advance of the hearing as documentation that a community meeting was held. If the Commission determines that adequate documentation has not been submitted, no vote will be taken on the Demolition Delay.

- List of names of attendees, addresses, emails.
- List of addresses where flyers were distributed, or a map illustrating the area of distribution.
- If an alternative method of notification or distribution area is used, documentation of the alternative and confirmation of BLC staff authorization to use such a method or distribution area must be submitted.
- Copy of flyer or other notification materials.
- Copy of email message and email list.
- Copy of all materials presented or distributed at the community meeting.
- Letter from MONS and/or community groups summarizing the meeting, if available.

Information for Combining Community Meeting with other Meetings:

Another meeting, such as a neighborhood or civic association meeting or an Article 80 meeting, or a meeting held prior to the submittal of an Article 85 application, may substitute for the Article 85 community meeting. However, **all requirements** for the community meeting as listed above **must be met**, including notification, materials presented, and submittal of documentation. Note that the notification requirements may be modified by MONS, in consultation with BLC staff, as noted above.

Community Meeting Notice Statement (to be read at Community Meeting and printed on flyer):

This community meeting is being held as part of an Article 85 Demolition Delay application to demolish the building at (address). The purpose of this meeting is to inform the community about the proposed demolition and to present alternatives to the demolition. All interested parties are welcome to attend, and will have the opportunity to comment and ask questions.

This community meeting DOES NOT take the place of the Boston Landmarks Commission public hearing. All interested parties are encouraged to attend the BLC public hearing on [date] to express their views on the proposed demolition, or to submit written comments to the BLC if they are unable to attend. Please submit written comments by the hearing date to: Boston Landmarks Commission, Boston City Hall, Room 709, 1 City Hall Square, Boston, MA 02201, or send an email to BLC@boston.gov.