



# Article 85 Demolition Delay Requirements

[Temporary – as of March 2022]

## Public Hearing for Significant Structures

Questions? Contact Landmarks Commission staff at [BLC@boston.gov](mailto:BLC@boston.gov)

For Article 85 Information, see [boston.gov/landmarks](http://boston.gov/landmarks)

Within 30 days of issuing a Preliminary Notice of Determination, the Boston Landmarks Commission (BLC) is required to schedule a Demolition Delay hearing at a regularly scheduled meeting, held on the second or fourth Tuesday of each month. This hearing usually needs to be rescheduled.

### Article 85 Demolition Delay Review Public Hearing Process

#### The hearing is organized into two steps:

In the first step, the commission will determine whether the building is preferably preserved. It will invoke the 90-day demolition delay if it finds that it is in the public interest for the building to be preserved or rehabilitated rather than demolished.

In the second step, if the Commission invokes the demolition delay, it will then evaluate alternatives to demolition and review the proposed project. The Commission may consider waiving the delay if it finds there are “no feasible alternatives to demolition.

#### Part One: Demolition Delay Determination

In order for the Commission to determine if the structure is preferably preserved and subject to demolition delay, the applicant shall present any information that will assist the Commission in determining whether the building is subject to Demolition Delay, including:

- Any additional information regarding the history of the property and its significance, as defined under Article 85.
- Information regarding the condition of the structure. If condition is cited as reason for demolition a structural engineer’s report is required.

The presentation during part one should focus on whether the structure is a significant, preferably preserved structure subject to demolition delay. The applicant should not present the proposed plans for the site or alternatives to demolition during part one.

After the applicant’s presentation, commissioners will ask questions and invite public comment. **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 and 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.

If sufficient documentation has been submitted, the Commission will determine whether the building is subject to Demolition Delay. When making this determination, the Commission considers the following criteria as defined by Article 85:

1. The building’s historic, architectural, and urban design significance;
2. Whether the building is among the last remaining examples of its kind in the neighborhood, the City, or the region; and
3. The building’s condition.

If, based on its evaluation of the information, the Commission does not make a motion to invoke demolition delay, or does not pass a motion to invoke demolition delay, BLC staff will issue a letter authorizing the Commissioner of Inspectional Services to issue a demolition permit.

If the Landmarks Commission issues a determination that a significant building is subject to demolition delay, the Commissioner of Inspectional Services is notified not to issue a demolition permit until ninety (90) days have elapsed following the close of the public hearing.

If the Commission invokes the 90 day demolition delay, the Commission will then move forward with Part Two of the hearing to review additional documentation regarding alternatives to demolition and may consider making a finding of "No Feasible Alternative.

### **Part Two: Determination of "No Feasible Alternative to Demolition"**

Although a building may be evaluated as meeting the demolition delay criteria, the Commission may consider information presented at the hearing as grounds for issuing a determination of "no feasible alternative to demolition."

Applicants are encouraged to present information concerning alternatives to demolition at the public hearing. This information should include/address:

- The steps and processes required for stabilizing, repairing, rehabilitating, or re-using the building
- Alternatives to demolition, incorporating the existing building(s) into plans for the site
- Any definite plans for the re-use of the property if the proposed demolition is carried out.

Additional information may include:

- the effects such plans would have on the architectural, social, aesthetic, historic, and urban design character of the surrounding area, as well as on the economy of the area or the City as a whole;
- any conditions the Applicant proposes to accept for the redevelopment of the site that would mitigate the loss of the building;
- the availability of other sites for the Applicant's intended purpose or use.

### **Evaluation of Alternatives to Demolition and Determination of "No Feasible Alternative to Demolition"**

In evaluating alternatives to demolition, the Landmarks Commission may consider such possibilities as: the incorporation of the building into the future development of the site; the adaptive re-use of the building; the use of financial incentives for the rehabilitation of the building; the removal of the building to another site; and, with the owner's participation, the search for a new owner willing to purchase the building and preserve, restore, or rehabilitate it.

If, based on its evaluation of alternatives, the Landmarks Commission is satisfied that there is no feasible alternative to demolition; the Commission may issue a determination prior to the expiration of the delay period authorizing the Commissioner of Inspectional Services to issue a demolition permit.

If the Commission does not make a finding of No Feasible Alternative, the applicant may be invited to return to a future BLC hearing to present additional information for the Commission to consider a finding of No Feasible Alternative.

### **Demolition Delay Expiration and Notification**

Upon expiration of the delay period, the Landmarks Commission will issue a notice that such delay period has expired, and the date of such expiration. This notice will be mailed to the Applicant, with copies to the Commissioner of Inspectional Services, the Boston Planning & Development Agency, the Boston Civic Design Commission and, where applicable, to any interested parties.

## Required for the Article 85 Demolition Delay Review Hearing

A property proposed for demolition has been determined “significant” under Article 85 requires a public hearing before the BLC. The applicant is required to include the following documentation at the hearing:

- The applicant shall present photographs of the property proposed for demolition, illustrating the property, its condition, and its surroundings.
- The applicant shall research and present any historical information available on the property, and information 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 alternatives to the demolition of the property, including rehabilitation and/or incorporation of the building into the proposed project. (See Examples of Alternatives to Demolition.)
- A letter stating whether the proposed project requires zoning relief and if so, documentation of the status of the Zoning Board of appeals process.
- After discussing the condition of the building and alternatives to demolition, the applicant will have an opportunity to discuss the proposed development and should be prepared to answer questions by interested parties and by commissioners.

The following documentation may also be helpful for the hearing process:

- Effects of post-demolition plans on the community.
- Availability of alternative sites for the proposed post-demolition construction.
- Other materials that may help the Commission evaluate whether the property is subject to delay.

Applicants should contact BLC staff with questions regarding requirements for the hearing. Materials to be presented at the hearing should be submitted to BLC staff one week prior to the hearing date. An applicant may request, in writing, a later hearing date if there is not sufficient time to prepare additional materials or to conduct community notifications prior to the scheduled public hearing.

## Article 85 Community Notifications Requirements

Prior to the Article 85 BLC hearing, the applicant shall notify the local community where the building proposed for demolition is located. The applicant shall meet the requirements outlined below for notification, content, and documentation of the meeting.

### Community Notification Requirements:

- Notice of the BLC hearing must be distributed at least seven (7) days prior, not including Sundays and holidays.
- Notice must be distributed in the form of a flyer (template provided by the BLC) 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, consult with BLC staff about another acceptable method.*
- Notice must be distributed via email (list to be provided by BLC staff) to interested community groups, historical societies, preservation groups, elected officials, and other interested parties.
- Signage (template provided by BLC) should be posted on or directly in front of the property proposed for demolition. Signage should be 24x36” and posted on a bright background.
- Email interested community organizations, historical societies, preservation groups, elected officials. BLC will provide this information.
- Provide staff with a map and list of addresses to which flyers were distributed.