



The City of Buffalo Common Council

1413 City Hall
Buffalo, NY 14202

Meeting: 01/16/18 02:00 PM
Department: Common Council
Category: Resolution

Prepared By: Malcolm Ertha

Initiator: Malcolm Ertha

Sponsors: Chairman David A. Franczyk

DOC ID: 4401 G

TABLED

AGENDA ITEM 17-1198

Franczyk - Strengthening Preservation Code

- Whereas, The City of Buffalo Preservation Board was created in The City Charter to protect historic resources within The City, as codified in Section 337 of the Charter;
- Whereas, while Sec. 337 concerns protections for properties designated as city landmarks, The Common Council also approved Section 103-6 that requires any applicant for a demolition permit to be referred to the Office of Strategic Planning and the Preservation Board for its review, whether or not the property was a landmark, or eligible for landmark status, in order to assess and potentially protect an historic resource;
- Whereas, a recent decision by a State Supreme Court judge appears to weaken a portion of Sec. 103-6 of the Preservation Code, arguing that review of a non-landmarked structure by the Office of Strategic Planning and the Preservation Board is merely advisory insofar as a petitioner's request for a demolition permit is reduced to a ministerial act, compelling the Commissioner of Inspections to issue a demolition permit as a matter of right, regardless of the possibility that the structure in question may be worthy of landmarking and protection;
- Whereas, the judge's ruling also infers that buildings on the National or State Historic Registry are also subject to de facto demolition by right without substantive City review;
- Whereas, Section 103-6 gives the Commissioner of Inspections the power to "accept or reject the completed [demolition] application within 60 days after filing," giving him broad discretionary powers, not merely to provide a mandatory demolition permit;
- Whereas, Section 103-6 also gives the Preservation Board the authority to review the demolition request for a non-landmarked building in Subsection 103-6(h)(4), referencing that the applicant "should complete and submit the first part of the short Environmental Assessment Form," which may lead to the requirement of a full EIS;
- Whereas, the word should in section 103-6(h)(4) does not reflect the intent of the ordinance by rendering this section of ordinance as merely voluntary, thus endangering a possible City historic asset or National and State designated landmark;
- Whereas, the legislative intent of the Charter grants the Preservation Board more than an advisory instruction to the Commissioner of Inspections in regards to the granting of a demolition permit to an applicant of a non-landmarked property, but mandates an appeal process through The Common Council:
Now, Therefore Be It

Resolved that The City of Buffalo Common Council-

- 1) Amends Sub section 103-6(h)(4) of the Preservation code to read “the applicant **shall** complete and submit part I of the Short Environmental Assessment Form,” thereby eliminating the word “should” from the subsection requirement; and
- 2) Confirms its Charter authority to affirm, vacate, or override the Preservation Board’s denial of an applicants’ Certificate of Appropriateness as it applies to demolition of non-landmarked properties in The City of Buffalo.

HISTORY:

07/11/17	Common Council	REFERRED TO LEG	
Referred to Committee on Legislation, Preservation Board, and Corporation Counsel			
07/18/17	Legislation Committee	TABLED	Next: 09/12/17
09/12/17	Legislation Committee	TABLED	Next: 09/26/17
09/26/17	Legislation Committee	TABLED	Next: 10/10/17
10/10/17	Legislation Committee	TABLED	Next: 10/24/17
10/24/17	Legislation Committee	TABLED	Next: 11/08/17
11/08/17	Legislation Committee	TABLED	Next: 11/21/17
11/21/17	Legislation Committee	TABLED	Next: 12/05/17
12/05/17	Legislation Committee	TABLED	Next: 12/19/17
12/19/17	Legislation Committee	TABLED	Next: 01/02/18
01/02/18	Legislation Committee	TABLED	Next: 01/16/18

RESULT:	TABLED	Next: 1/30/2018 2:00 PM
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