



The City of Buffalo Common Council

1413 City Hall
Buffalo, NY 14202

Meeting: 07/02/19 01:00 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	
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
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01/16/18	Legislation Committee	TABLED	Next: 01/30/18
01/30/18	Legislation Committee	TABLED	Next: 02/13/18
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03/13/18	Legislation Committee	TABLED	Next: 03/27/18
03/27/18	Legislation Committee	TABLED	Next: 04/03/18
04/03/18	Legislation Committee	TABLED	Next: 04/10/18
04/10/18	Legislation Committee	TABLED	Next: 04/24/18
04/24/18	Legislation Committee	TABLED	Next: 05/08/18
05/08/18	Legislation Committee	TABLED	Next: 05/22/18
05/22/18	Legislation Committee	TABLED	Next: 06/05/18
06/05/18	Legislation Committee	TABLED	Next: 06/19/18
06/19/18	Legislation Committee	TABLED	Next: 07/03/18
07/03/18	Legislation Committee	TABLED	Next: 07/17/18
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07/31/18	Legislation Committee	TABLED	Next: 09/11/18
09/11/18	Legislation Committee	TABLED	Next: 09/25/18
09/25/18	Legislation Committee	TABLED	Next: 10/09/18

10/09/18	Legislation Committee	TABLED	Next: 10/23/18
10/23/18	Legislation Committee	TABLED	Next: 11/07/18
11/07/18	Legislation Committee	TABLED	Next: 11/20/18
11/20/18	Legislation Committee	TABLED	Next: 12/04/18
12/04/18	Legislation Committee	TABLED	Next: 12/18/18
12/18/18	Legislation Committee	TABLED	Next: 01/02/19
01/02/19	Legislation Committee	TABLED	Next: 01/15/19
01/15/19	Legislation Committee	TABLED	Next: 01/29/19
01/29/19	Legislation Committee	TABLED	Next: 02/12/19
02/12/19	Legislation Committee	TABLED	Next: 02/26/19
02/26/19	Legislation Committee	TABLED	Next: 03/12/19
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03/26/19	Legislation Committee	TABLED	Next: 04/09/19
04/09/19	Legislation Committee	TABLED	Next: 04/23/19
04/23/19	Legislation Committee	TABLED	Next: 05/07/19
05/07/19	Legislation Committee	TABLED	Next: 05/21/19
05/21/19	Legislation Committee	TABLED	Next: 06/04/19
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RESULT:	TABLED	Next: 7/16/2019 1:00 PM
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