

August 2, 2013

Mr. David Maloney
State Historic Preservation Officer
DC Office of Planning
1100 4th Street, S.W., Suite E650
Washington, DC 20024

Re: Draft Demolition by Neglect Regulations

Dear David:

We appreciate the opportunity to comment on the draft demolition by neglect regulations. While the statutory requirement for a court order to initiate direct action against property owners for demolition by neglect may limit their use to only very difficult cases, we believe they offer an important new tool to address an ongoing problem in the District of Columbia. We welcome their addition to the regulations governing operation of the Historic Preservation Office.

At the same time, we note the need for closer coordination between HPO and DCRA in enforcement of building code provisions applicable to historic landmarks and historic districts – and by them with other interested agencies, such as DHCD and OTR. We believe that a written agreement between the Office of Planning and DCRA as anticipated by Section 11(d)(2) of D.C. Law 2-144 and Section 104.7 of the existing regulations could clarify existing roles and expedite imposition of generally applicable property fines to historic properties. We wonder whether such an agreement might not address use of funds from the Historic Landmark-District Protection Fund for repairs to historic properties, as intended by the 2006 amendments to D.C. Law 2-144.

While more reliable enforcement of DCRA's authorities related to property maintenance should improve the overall condition of historic properties, DCRA's mandate is to protect the health and safety of the public not to preserve particular buildings. Remedial action by DCRA may be so delayed (and often is) as to make it necessary to demolish a building to protect the public safety. Indeed, such a result was narrowly averted at 1724 Park Road in Mount Pleasant, where a significant end-of-row structure was ultimately saved only through an eleventh-hour foreclosure sale to a determined young developer. Even with closer coordination between HPO and DCRA, HPO should have its own authority to proceed to protect historic structures *per se*. It should not be necessary that their condition deteriorate to the point of becoming a public nuisance before owners are warned of the need to make repairs or be fined and be subject to other enforcement action.

Indeed, we consider it critical that fines be imposed for the failure to maintain historic properties and that this possibility be further developed in the HPO regulations. This would be another prong of the stated goal of the 2013-2016 preservation plan of "acting before it's too late" to save historic properties that may be threatened by demolition by neglect. Property owners should be fined as soon as there is evidence of serious neglect of basic maintenance. Maintenance standards and applicable fees for violations should be set forth in new chapters 10 and 33 of the historic preservation regulations, which are reserved for such purposes. These standards should be coordinated with (and may even repeat) those applicable under building codes, but they should be set out and/or specifically cross-referenced in the historic preservation regulations to be readily accessible to historic property owners.

Turning to the language of the proposed regulations themselves, we have a few questions and suggestions by section number:

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800.8: The examples of demolition by neglect are all repeated verbatim from the statute. It would seem desirable to offer additional examples or further elaboration on some of these, particularly with respect to deterioration of distinguishing characteristics that are not structural.

801.1: Does the Director currently have the ability to acquire the information necessary to determine that demolition by neglect is occurring? Is OP inspection authority adequate? How can the public help?

HPO could institute a public registry similar to that maintained by DCRA for vacant property. Historic Mount Pleasant previously offered to survey its neighborhood but asked for guidance on what kinds of maintenance issues to report. Deteriorated front porches? Boarded-up windows? Other organizations would certainly be willing to do the same. The registry could serve as a watch list for deteriorating properties and also a heads-up to owners that their properties are matters of public concern.

802.2: Is written notice to the owner following issuance of a court order permissive rather than mandatory because the court order itself is expected to provide notice to the owner of upcoming actions?

We would appreciate an opportunity to discuss these issues further with you to pinpoint gaps in the current enforcement structure and determine how they may best be addressed. The proposed demolition by neglect regulations are an important step forward, but they need to be accompanied by efforts to improve early detection of and intervention with problem properties. We look forward to continuing to work with you on these and all other matters.

Sincerely yours,



Charles Robertson
Co-Chair, Historic Preservation Subcommittee
Committee of 100 on the Federal City



Fay Armstrong
President, Historic Mount Pleasant



Thomas Bower
President, Dupont Circle Conservancy