

Moore-Love, Karla

From: Meg Hanson <meg.k.hanson@gmail.com>
Sent: Monday, July 25, 2016 8:00 PM
To: Council Clerk – Testimony
Subject: Re: July 20th Council meeting - request to speak
Attachments: City_Council_7_20_16_v1.pdf

I was able to speak on the 20th (communication item 834 on the agenda). However, I wasn't able to bring my documentation with me that day - (my first time at City Hall and everything that could go wrong did) but I made it and I got a chance to speak so for that I feel fortunate.

Mayor Hales told me I could follow up and email the members my documentation, I was wondering if it is also possible to submit the attached .pdf of the document I was reading from that day (and had hoped to provide in person) to your office so that it can be attached to my testimony in the City Auditor's archive. I believe the teleprompter was already turned off for my testimony as well, so it's even more important to me that I leave behind some record for posterity of what I wanted to present in its entirety.

I hope this is possible, I look forward to hearing from you.

Thank you,

Meg

On Mon, Jul 11, 2016 at 4:16 PM, Council Clerk – Testimony <CCTestimony@portlandoregon.gov> wrote:

Hello Meg,

Thank you for confirming that July 20th will work for you. Communications are the first item on the official agenda and we start at 9:30 a.m. You will have three minutes to address the Council but you may also submit written material, please provide seven copies.

Communications allow the Council to hear of issues that interest our community but does not always allow an opportunity for dialogue.

Council takes place at City Hall, 1221 SW 4th Ave., 2nd floor, Council Chambers.

Regards,

Karla



Karla Moore-Love | Council Clerk

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phone: 503.823.4086

Clerk's Webpage: www.portlandoregon.gov/auditor/councilclerk

From: Meg Hanson [mailto:meg.k.hanson@gmail.com]

Sent: Monday, July 11, 2016 2:54 PM

To: Council Clerk – Testimony <CCTestimony@portlandoregon.gov>

Subject: July 20th Council meeting - request to speak

As I understand it, I am tentatively scheduled to address Council on the morning of July 20th. This email is to confirm that intention and to summarize the nature of my request.

Name: Meg Hanson

Regarding: Action on demolition permits issued for Historic Resources in violation of OAR 660-023-0200 (9)

Thank you,

Meg
[503-887-4748](tel:503-887-4748)

Portland City Council Meeting

July 20, 2016

presented by 120DayDelay.org

PURPOSE:

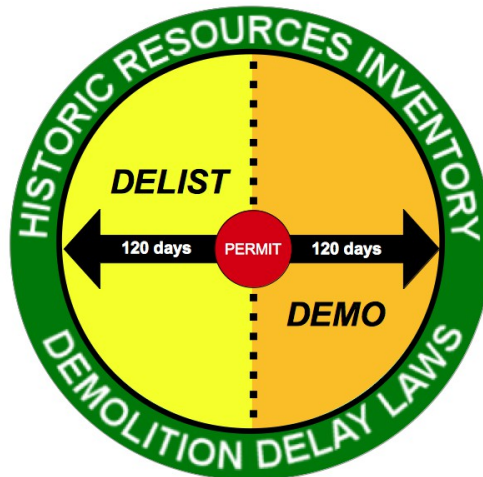
The purpose of this document is to provide an overview of our detailed investigation into demolition permits issued illegally for Historic Resource Inventory (HRI) properties and to issue a request for immediate remedy.

BACKGROUND:

There has been much recent controversy and debate regarding Oregon's unique 'owner consent' regulations which allow a property owner to request removal of local historic designations. There are two portions of regulations governing HRI property demolitions: the first requires a 120 day delay if a property is delisted; the second requires a 120 day delay if a property remains on the list.

In 2003, a city zoning code amendments package allowed for same-day removal from the HRI and decoupled that removal from demolition delay review requirements. This effectively created a conflict within the code and a loophole which, after it became standard procedure at Portland Bureau of Development Services (BDS), resulted in the **complete elimination of demolition delay reviews for HRI properties since that time**. This practice administratively delisted all HRI properties before or at the same time that demolition permits were issued – no longer subjecting them to the 120 day demolition delay review requirements for Historic Properties.

In addition to circumventing the administrative responsibilities of conducting demolition delay review proceedings, **the BDS violated State law** by failing to enforce the regulation which requires a 120 day delay after HRI removal before issuing a demolition permit. In other words, **the BDS failed to enforce the entirety of HRI demolition delay regulations for over 13 years**.



OAR 660-023-0200 (9) specifically states: A local government **shall not issue a permit for demolition or modification of a historic resource** described under subsection (6) of this rule **for at least 120 days from the date a property owner requests removal of historic resource designation** from the property.

So with that, we set out to analyze the extent to which the City of Portland complied with or violated State law. Consolidated HRI removal data is not readily available to the public and, to our knowledge, has not been extensively cross-referenced with relevant information from disparate sources until now.

RESEARCH METHODS:

The goal of our research was to assemble and analyze related data from a variety of sources so that we could analyze and interpret it from a consolidated vantage point where we were able to not only see prevailing patterns, but to draw more meaningful and informed conclusions.

First, we gathered a list of all HRI removals since 2012. Then that information was cross-referenced with BDS demolition, land-use intakes, lot splits, and other permit data . We also cross referenced with the tax assessor sales records to include sale dates, amounts, owner, contractor, builder, and replacement structure sale data if available. In some cases we also included ownership information for LLCs by querying the Secretary of State business registry. We also reviewed and downloaded BDS permit documents, HRI Inventory forms, and other relevant documentation – assembling a library of over 140 files thus-far. We also included ancillary research information from NextPortland.com, Business Journal reports, and other search results that might provide additional insight and context.

FACTS:

Total HRI removal requests (2012 – July 2016):

71

Outside scope of this study:

16

[duplicates (2): secondary removal requests long after the first; Administrative (1): update of HRI for property demolished prior to 1996 but not removed; alterations (7): permits on or around the time of de-listing for renovations, alterations, or pertaining to other structures on-site; facilities (6): de-listing pertains to demo or renovation of outbuildings at public schools, utility, or ancillary structures at the zoo, etc.]

Relevant records:

55

Purpose of Removal:

Demolition Permit Issued:	<u>31</u>	
violations	29	94%
no violations	2	
Delisted but no Permit Issued:		
Demolition Intended ¹ :	<u>15</u>	
delisted with recent/prior BDS Contact:	15	100%
Demolition Likely ² :	7	
Demolition Less Certain ³ :	2	

¹ de-listed with stated and/or documented intent to demolish (Early Assistance Design and Land Use intakes, etc.)

² close proximity to significant development pressure

³ less immediate development pressure but contributing factors indicate the possibility of future development and/or expansion under existing ownership

Recent sales (within 1 year of HRI removal):	34	63%
< 3 months:	25	74%
3 – 6 months:	6	18%
> 6 months:	3	9%

FINDINGS:

Demolition Permitting:

Our research did not discover a single instance of the BDS enforcing the 120 day HRI demolition delay.

94% (29) of the demolition permits we analyzed were **issued illegally** less than 120 days from HRI removal.

Of those 29 illegal permits, 2 were issued before removal from the HRI and 1 was issued for a property that was never removed. Of the remaining 26 permit violations, 85% were issued less than a month from delisting – a large percent issued on the same day.

There were 2 permits issued legally - the delay was not a result of BDS enforcement but, rather, the property owner submitting an application for permit after 120 days had passed from the time of delisting.

The vast majority of these HRI removals and demolition permits were requested within days or weeks of a recent sale to a real estate developer.

Delisting Patterns:

The prevailing pattern of issuing demolition permits shortly after delisting remained consistent and relatively predictable from the beginning of our study sample (2012) up until January of 2016. However, Beginning in 2016, we observed a dramatic and abrupt change in pattern across all types of removal requests. The overwhelming majority of 2016 HRI removals are uncharacteristically 'lingering' without a demolition permit issued. Several sit in 'under review' status, 'approved to issue', or there has been no application made.

In order to find a common denominator to explain this shift, we further cross referenced those properties with any activities that would place the owner, architect, or prospective developer into formal contact with the BDS. **100% of those cases where intent to demolish was established, removal from the HRI was preceded by recent contact with the BDS.**

This established a compelling pattern of contact and circumstances to infer that the property owners/developers had been advised to request HRI removal at first contact and also to suggest that the permits requests and/or approvals were being intentionally held back.

Because **HRI removals are not published as a part of the public record**, the community and Neighborhood Associations are not notified of pending demolitions until the permit is filed. This new delisting pattern heavily suggests that the BDS partnered with these developers (therefore making them **complicit**) in de-listing and “running out the clock” **in secret** before applying for demolition permits. It gives the **appearance of compliance in retrospect but conceals the intent from the public in the present** – resulting in **intentionally depriving the community of the time and opportunity afforded by law to explore alternatives to demolition.**

In addition to a long history of violating State laws, these BDS practices continue to cause **irreparable harm and betray the public trust** by eliminating the requisite transparency, oversight, and public discussion explicitly intended by both the letter and spirit of the law.

REQUESTED ACTION:

1. We request immediate State and City investigations into the 29 demolition permits issued illegally since 2012 as well as all demolition permits for HRI removals issued since 2003.
2. We request that the Portland City Attorney issue an immediate directive to the BDS to temporarily halt all de-listing of local Historic Resource Inventory properties until both the conclusion of a formal investigation and until the Supreme Court issues a decision in the case of Lake Oswego Preservation Society v. City of Lake Oswego.
3. We request that the City enact an immediate moratorium, as defined by ORS 197.520, on the demolition of locally designated Historic Resource Inventory properties until both the conclusion of a formal investigation and until the Supreme Court issues a decision with regard to 'owner consent' issues raised in Lake Oswego Preservation Society v. City of Lake Oswego. The potential loss of historic resources qualifies as an irrevocable public harm that outweighs the adverse effects on owners who may be delayed in redeveloping their properties.
4. We request that the BDS immediately comply with the 120 day delay period following HRI removal as required by State law and clarified by the Oregon Administrative Rules OAR 660-023-0200 (9). There is no grey area.
5. We request that all Historic Resource Inventory removals be made public and included in the the weekly Metro Reports as well as notifying the relevant Neighborhood Associations.

CONCLUSION:

The evidence is clear that the express intent of the owner consent laws are being exploited and circumvented for the purpose of expedited demolition while at the same time **illegally depriving the community of its right to discussion and delay**. The BDS circumvented the requirement to conduct demolition delay reviews for HRI properties by virtue of de-listing, and also violated the law by illegally issuing demolition permits after failing to enforce the 120 day delisting delay. Our research is clear, compelling, and very well documented. It opens the door for City, State, and Federal investigations as well as civil class action lawsuits.

We have published and distributed our research online and made it available for download - the raw data, consolidated tracking spreadsheet, and all supporting documentation - inviting anyone with an interest to take a look.

Members of the Portland City Council, we urge you to bring these Historic de-listings out into the light of day where they belong and where we can talk about them and explore alternatives to demolition. **It is our right and it is your obligation.**

Thank you for your time.

Historic Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Designation" is a decision by a local government declaring that a historic resource is "significant" and including the resource on the list of significant historic resources.

(b) "Historic areas" are lands with buildings, structures, objects, sites, or districts that have local, regional, statewide, or national historic significance.

(c) "Historic resources" are those buildings, structures, objects, sites, or districts that have a relationship to events or conditions of the human past.

(d) "Historic resources of statewide significance" are buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved national register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

(e) "Protect" means to require local government review of applications for demolition, removal, or major exterior alteration of a historic resource.

(2) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories or programs regarding historic resources, except as specified in this rule. The requirements of the standard Goal 5 process (see OAR 660-023-0030 through 660-023-0050) in conjunction with the requirements of this rule apply when local governments choose to amend acknowledged historic preservation plans and regulations. However, the sequence of steps in the standard process is not recommended, as per section (3) of this rule. The provisions in section (3) of this rule are advisory only. Sections (4) through (9) of this rule are mandatory for all local governments, except where the rule provides recommended or optional criteria.

(3) Local comprehensive plans should foster and encourage the preservation, management, and enhancement of structures, resources, and objects of historic significance within the jurisdiction in a manner conforming with, but not limited by, the provisions of [ORS 358.605](#). In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. Where possible, local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance before commencement of local historic inventories.

(4) Local governments shall provide broad public notice prior to the collection of information about historic resources. Local governments shall notify landowners about opportunities to participate in the inventory process. Local governments may delegate the determination of significant historic sites to a local planning commission or historic resources commission. The determination of significance should be based on the National Register Criteria for Evaluation or the Secretary of the Interior's Standards for Evaluation.

(5) Local governments shall adopt or amend the list of significant historic resource sites (i.e., "designate" such sites) as a land use regulation. Local governments shall allow owners of inventoried historic resources to refuse historic resource designation at any time prior to adoption of the designation and shall not include a site on a list of significant historic resources if the owner of the property objects to its designation.

(6) The local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

(7) Local governments are not required to apply the ESEE process in order to determine a program to protect historic resources. Rather, local governments are encouraged to adopt historic preservation regulations regarding the demolition, removal, or major exterior alteration of all designated historic resources. Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior.

(8) Local governments shall protect all historic resources of statewide significance through local historic protection regulations, regardless of whether these resources are "designated" in the local plan.

(9) A local government shall not issue a permit for demolition or modification of a historic resource described under subsection (6) of this rule for at least 120 days from the date a property owner requests removal of historic resource designation from the property.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040 & ORS 197.225 - ORS 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

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Name: Meg Hanson

Regarding: Action on demolition permits issued for Historic Resources in violation of OAR 660-023-0200 (9)

Thank you,

Meg
503-887-4748

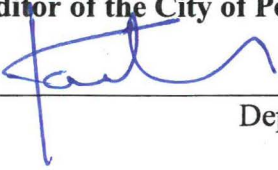
Request of Meg Hanson to address Council regarding action on demolition permits issued for Historic Resources in violation of OAR 660-023-0200(9) (Communication)

JUL 20 2016

PLACED ON FILE

Filed JUL 12 2016

MARY HULL CABALLERO
Auditor of the City of Portland

By  Deputy

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
1. Fritz		
2. Fish		
3. Saltzman		
4. Novick		
Hales		