



CITY OF HOUSTON

Executive Order

Subject: **Demolition of Privately Owned Buildings**

E.O. No:

1-19

Effective Date:

December 6, 2011

1. AUTHORITY

- 1.1 Article VI, Section 7a, of the City Charter of the City of Houston; Chapter 54 of the Texas Local Government Code; Subchapter A of Chapter 214 of the Texas Local Government Code.

2. BACKGROUND

- 2.1 The Texas Local Government Code authorizes municipalities to conduct administrative proceedings related to substandard structures, which proceedings in certain instances may result in a declaration that a structure is a public nuisance (a "public nuisance building"). The declaration may be followed by an order to demolish the building. Since 1993, the City has conducted such administrative proceedings before the City's Building and Standards Commission or before a hearing officer, to the substantial benefit of public health and safety.
- 2.2 For many years the settled law of this state was that the owner of a structure declared to be a public nuisance building and ordered demolished as a result of a municipal administrative proceeding was not entitled to compensation from the municipality, as long as the administrative proceeding provided procedural safeguards to protect the owner's interests.
- 2.3 In February 2011, the Texas Supreme Court ruled that the owner of a structure demolished by a municipality in compliance with an administrative order is entitled to seek damages from the municipality, even if the administrative proceeding provided every safeguard required by the Texas Local Government Code.
- 2.4 Notwithstanding the Texas Supreme Court's ruling, the City's demolition of public nuisance buildings remains essential to public health and safety.

3. PURPOSE

- 3.1 To provide additional procedures for the City's demolition of privately owned buildings.

4. OBJECTIVES

- 4.1 To enable the City to demolish public nuisance buildings under appropriate circumstances without creating undue legal exposure; to promote the integrity of

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neighborhoods; to strengthen private property rights; and to conserve the City's limited demolition funds.

5. DEFINITIONS

- 5.1 In this Executive Order, words in italics are defined in Chapter 10, Article IX, of the Code of Ordinances, City of Houston, Texas (the "COH Code").

6. CREATION OF DEMOLITION ASSESSMENT PANEL

- 6.1 The demolition assessment panel ("DAP") of the City is hereby created. The DAP shall be composed of the neighborhood protection official or his designee; the director of general services or his designee; the chief of police or his designee; and two attorneys appointed by the city attorney; provided that all members of the DAP shall be employees of the City and shall serve at the pleasure of the mayor.

7. DUTIES OF DAP; PROCEDURES

- 7.1 The DAP may act only by way of a meeting at which all of its members are present in person or by telephone.
- 7.2 The *building standards official* may recommend to the DAP that the City demolish a building pursuant to this Executive Order and the COH Code.
- 7.3 The DAP shall meet regularly to consider recommendations submitted by the *building standards official* pursuant to Section 7.2.
- 7.4 The DAP's consideration of recommendations submitted by the *building standards official* pursuant to Section 7.2 shall be guided by the following criteria:
- 7.4.1 Whether a partial or full demolition of the building is necessary to remove a serious threat to human health or safety;
- 7.4.2 Whether a partial or full demolition of the building is likely to benefit the surrounding community and, if so, whether the said benefit will be reasonably proportionate to the economic loss, if any, likely to be sustained by the building's owner as a result of the demolition; and
- 7.4.3 Whether the building can be demolished at a final cost to the City (a) reasonably proportionate to the threat to human health or safety presented by the building and (b) not inconsistent with the City's obligation to expend its funds for the well-being of the City as a whole.
- 7.5 The DAP shall respond with reasonable promptness to each recommendation submitted or resubmitted by the *building standards official* pursuant to Section 7.2, which response shall consist of a written directive that:
- 7.5.1 Accepts the recommendation and, at the option of the DAP, provides instructions pertinent to the demolition;
- 7.5.2 Declines the recommendation and, at the option of the DAP, proposes one or more alternatives; or
- 7.5.3 Requests additional information pertinent to the recommendation.

The DAP may provide an explanation for a written directive but is not required to do so.

- 7.6 The DAP shall preserve records of its proceedings for at least three years after the records are created and as otherwise may be required by law.
- 7.7 The DAP may promulgate such rules and procedures as may be necessary to fulfill the duties imposed by this Executive Order.

8. DEMOLITION BY THE CITY PROHIBITED; EXCEPTIONS

- 8.1 No person employed by or acting at the direction of the City shall cause the demolition of more than 5% of a privately owned building unless:
 - 8.1.1 The demolition is ordered in writing by the fire chief (or his designee) pursuant to the Fire Code;
 - 8.1.2 A final judgment by a court of competent jurisdiction authorizes the demolition;
 - 8.1.3 The City receives written permission for the demolition from (a) the holder of either fee simple title in the property or a legal interest in the property that by operation of law is materially equal to fee simple title (such as the interest that may held by an executor, receiver, or trustee, depending upon the terms of the appointment); and (b) the holder(s) of all validly recorded liens against the property; provided that every such permission is in a form and includes all assurances the City may require;
 - 8.1.4 The building or a condition in the building constitutes a *serious and immediate hazard* and (a) the demolition is the only remedy reasonably likely to alter the building or to ameliorate the condition so that it no longer constitutes a *serious and immediate hazard*; and (b) the demolition is a *corrective action* ordered by the *building standards official* in compliance with Chapter 10, Article IX, Division 7 of the COH Code; or
 - 8.1.5 A lawful and unequivocal administrative order explicitly (a) orders the owner of the property to demolish all or part of the building by a date certain; and (b) authorizes the City to demolish all or part of the building if the owner of the property fails to comply with the order; provided that more than thirty days have passed since the said date certain and the demolition is approved by, and conducted in accordance with, a written directive of the DAP.

9. CONFLICT AND REPEAL

- 9.1 This Executive Order supersedes Executive Order 1-19, Demolition of Dangerous Buildings in Houston Neighborhoods, signed October 20, 2009, which shall be of no further force or effect.