

SECTION 5

Transcript of the
April 1, 2019
Landmark Commission
Hearing
1121 E. 9th Street
CD189-006(MP)

TRANSCRIPTION OF EXCERPT OF AUDIO RECORDING

LANDMARK COMMISSION PUBLIC HEARING

CITY OF DALLAS, TEXAS

CASE CD189-006(MP)

1121 EAST 9TH STREET

10TH STREET NEIGHBORHOOD HISTORIC DISTRICT

DATE OF HEARING: APRIL 1, 2019

DATE OF TRANSCRIPTION: MAY 9, 2019

1 T R A N S C R I P T I O N

2 CHAIRWOMAN SEALE: D-4.

3 UNKNOWN SPEAKER: D-4 is 1121 East 9th
4 Street, 10th Street Neighborhood Historic District,
5 CD189-006(MP).

6 Request: demolish a residential structure
7 3,000 square feet or less pursuant to a court order
8 51(a)-4.501i of the Dallas City Code.

9 Staff recommendation: Approve. The
10 proposed demolition meets the standards in City Code
11 section 51(a)-4.501 romanette 17 because the court
12 issued a final order requiring demolition of the
13 structure and the suspension of the certificate of
14 demolition is not a feasible option to alleviate the
15 nuisance in a timely manner.

16 UNKNOWN SPEAKER: Task force recommendation;
17 no quorum, comments only, recommend denying because
18 house is contributing structure. This recommendation is
19 from the February 12th task force meeting. Task force
20 does not review the applications again once they've
21 entered the initial suspension period.

22 CHAIRWOMAN SEALE: And for the record, there
23 is nobody here to speak either in favor or in opposition
24 to this item.

25 Questions? Commissioner Flabiano.

1 COMMISSIONER FLABIANO: Yeah, so since the
2 owner is the Applicant and it's gone through the City
3 process, the City appears, because the house meets the
4 criteria of under 3,000 feet and considered a nuisance
5 even though it is the owner.

6 What has happened to our -- in the City
7 staff, all City staff, what has happened to demolition
8 by neglect? And clearly the owner is requesting this.
9 The City, a neighbor hasn't complained and filed this on
10 behalf of the owner.

11 So I guess where is that process now? Is
12 that not even part of it, the consideration anymore?
13 Because I haven't seen one of those in probably five
14 years on the commission that might tend.

15 CHAIRWOMAN SEALE: For the City to process a
16 demolition by neglect, we have to receive a demolition
17 by neglect. We haven't received one from anyone. So
18 there's that, I hope that answers that part of that
19 question.

20 I guess the other part of the question is, I
21 mean, once it reaches the City Attorney's office and
22 gets a court ordered demo, we're way past the demolition
23 by neglect part.

24 Because really, the demolition by neglect
25 standard should be that process is what should keep us

1 from getting to this phase to where we actually get a
2 court ordered demo from the City Attorney's office to
3 demo the property.

4 That's kind of the more preemptive is the
5 demo by neglect. So once you already have the City
6 Attorney submit a court ordered demo issue, we're that
7 far gone unfortunately through the process.

8 COMMISSIONER FLABIANO: So who can -- at
9 some point somebody's got to file, whether it's a
10 another neighbor that the homeowner is neglecting the
11 property. So the neighbors within 10th Street should be
12 the ones filing complaints about the land and homeowner;
13 is that correct?

14 UNKNOWN SPEAKER: Correct. I mean, our code
15 says that anybody can request a demolition by neglect
16 case start for that. So it isn't that we have to wait
17 for -- the property could just be anybody that has -- I
18 feel like that property is a demolition by neglect and
19 then we start that process to review it.

20 COMMISSIONER FLABIANO: Is there a way to
21 reverse what's been done in terms of -- clearly, that is
22 neglect because there is an owner because his name is on
23 the list. I don't know if we can unravel that, but
24 certainly future ones, if the neighborhood was going to
25 be proactive there, they would start targeting these

1 properties where the homeowner doesn't live there and
2 clearly doesn't care.

3 UNKNOWN SPEAKER: Right. I mean, it's to
4 where we would, I mean, the purpose of the demolition by
5 neglect is to get the property owner aware of either
6 making repairs or have the City Attorneys come and get
7 in some sort of repair agreement or something with the
8 property owners so that they don't proceed with these
9 court ordered demos and having them go before a judge
10 who will essentially rubber stamp them, because that's
11 what they do for you-all to review.

12 Did that answer your question?

13 COMMISSIONER FLABIANO: Thanks. It did.

14 CHAIRWOMAN SEALE: Well, I'll speak since
15 nobody else has their light on. The demolition by
16 neglect, I was at Preservation Dallas when this
17 ordinance came through City Hall.

18 And the City was asking for a way to
19 expedite properties that where you did not have a
20 property owner, generally speaking, there was -- these
21 were properties that there was no identified owner or
22 there was multiple owners and sort of the title was up
23 into question and they needed -- the City was vocal
24 about paying for these engineer reports which they
25 claimed cost the City thousands of dollars to just delay

1 the neglect.

2 So that was part of the justification for
3 this ordinance. This however, doesn't seem to, although
4 technically I can appreciate, technically an owner or
5 the City can apply, but to me this seems like a gross
6 misuse of the ordinance.

7 And an owner who is a relatively new owner,
8 it's not like an owner, you know, that's sort of been
9 out of the picture that the City has identified, but
10 it's a new owner that came into a condition knowing that
11 it's a historic district and so on and so forth that is
12 now applying for the standard.

13 I think it's a much different situation than
14 even some of the other cases that we've seen. Because
15 what's to stop anybody from coming into 10th Street and
16 purchasing these properties and then applying under the
17 standard?

18 I mean, we're already losing the district.
19 This is just going to now open up a whole new
20 opportunity for land speculators to come into the
21 district, and, I mean, rubber stamp a demolition. I
22 mean, it's like a loophole that this person has found
23 and is taking advantage of.

24 Commissioner Swann.

25 COMMISSIONER SWANN: Okay. We should also

1 think about what we mean by demolition by neglect. And
2 generally, to satisfy when demolition by neglect is
3 brought against a structure, if you want to satisfy it
4 and bring it into compliance, you mothball the
5 structure.

6 And by "mothball" I mean that you secure it
7 against invasion and vandalism and you secure it against
8 what occurs by weather, you know. You make sure it's
9 waterworthy, it's shedding water, it's not leaking.
10 You're not getting, you know, rot from roof leaks.

11 And from what I've seen of this house just
12 doing a walk-around, the last time I looked at it, it
13 was successfully secured. You know, yes, there's some
14 rot on it, but I mean, there's not a hole in the roof or
15 other obvious problems. It's pretty routine neglect and
16 it's just that close to being mothballed.

17 So the question I have, I have a lot of
18 questions here. And one thing that happens with these
19 cases and this 3,000-square-foot rule, is that these are
20 initiated and the court order, I mean, we are notified
21 when the court order, the hearing has already been set
22 up. We're given notice; isn't that correct, Marsha,
23 that we're given notice when the date of the hearing is
24 set up?

25 By that time this process is already fully

1 in motion. And it's unreasonable to ask that we file
2 demolition by neglect on houses that are successfully
3 mothballed and I'm really meeting the standard for that.
4 And a mothballed house, that should be considered an
5 acceptable condition for 10th Street as long as it is
6 being secured and not contributing to obvious nuisance
7 like open and vacant.

8 Because that is the nature of 10th Street.
9 10th Street properties have title issues. A lot of
10 times they're waiting on their titles to be cleared by
11 tax foreclosure actions and that sort of thing.

12 We have all seen properties on 10th Street
13 that have been in a mothball condition for decades and
14 then have come back to life. We have seen recently a
15 property at 1100 Betterton that was in far worse
16 condition than this property. We've seen it come back
17 beautifully and probably pretty economically.

18 So a lot of -- among the questions that I
19 would ask the owner, were he here, would be, When did
20 you acquire the property at 1121 East 9th? Did you
21 acquire the property through a direct purchase from an
22 owner or by action at a tax sale? Were you aware that
23 you were purchasing property within a Dallas Landmark
24 District?

25 Were you aware that you were buying property

1 within a National Register of Historic Places Historic
2 District? Were you aware that the house on your
3 property is listed as contributing on the National
4 Register?

5 Were you aware that the structure you're
6 seeking to demolish has stood at 1121 East 9th Street
7 for 106 years? How many, approximately how many months
8 have you owned the property now and during that time,
9 what improvements have you made to the property?

10 During that time, what maintenance actions
11 have you taken on the property? You can see here that,
12 I mean, the shrubs are being allowed to grow up in front
13 of the porch. It's not even -- the grass is being cut.
14 I don't know who is doing that, maybe he's doing it.

15 But routine maintenance is not taking place.
16 What actions started the demolition process? What was
17 the initial action? Were you approached by the City?
18 Did you approach the City? Because if you look at the
19 styling of the court case, the plaintiff is the City of
20 Dallas, the defendant is 1121 East 9th Street, the
21 property.

22 Now, Mr. Mendez is noted as having appeared
23 at that action and agreed to pursue the demolition of
24 the house. So I would really like to know how this got
25 initiated because that is relevant to the question of

1 demolition by neglect.

2 I would also like to know why in this case
3 Mr. Mendez is listed as the Applicant, whereas in a case
4 we recently had, Case No. CD178-014, the Dallas City
5 Attorney was listed as the Applicant.

6 And both of those were referred to in our
7 public meeting as owner-initiated demolition. So I'd
8 like for that inconsistency to be explained. So what
9 action started the demolition process? When was the
10 prospect of demolition first raised and by whom?

11 Was it first raised by the owner? Was it
12 first raised by the City Attorney? Was it first raised
13 by Code Compliance? Who started talking about this
14 house as a candidate for demolition?

15 I think that's relevant. Okay. The
16 rationale for approval states that the suspension of a
17 certificate of demolition is not a feasible option to
18 alleviate the nuisance in a timely manner.

19 Okay. We're going to talk about the
20 nuisance. I'd like to ask the owner in his estimation
21 what is the nature of the nuisance here? Are we talking
22 about it's a nuisance to you because you don't want to
23 maintain your property?

24 It's a nuisance to keep up with the shrubs
25 and it's a nuisance to keep it secure? And it's a

1 nuisance to replace the rotten wood? Because the
2 neighbors are not saying it's a nuisance. He got one
3 immediate next door neighbor to sign off on a letter
4 requesting that the house be torn down. But that is not
5 the 10th Street residential association.

6 So what nuisance are we being asked to
7 alleviate and how did that nuisance come into existence?
8 Moreover, what incentives or encouragement were you
9 offered to bring the property into a state of
10 compliance? And was that even approached? Okay. So
11 those are my questions.

12 CHAIRWOMAN SEALE: Thank you. Thank you,
13 Commissioner Swann, great points. Commissioner
14 Strickland.

15 COMMISSIONER STRICKLAND: I have a question
16 for staff. According to the Dallas CAD, it looks like
17 this property was purchased in September 2017 and in the
18 agreed order it's listed as vacant.

19 In anytime from September 2017 until present
20 day, has the current owner of this vacant property ever
21 submitted to perform any -- have they applied for any CA
22 on this property? Have they performed any maintenance
23 on this property? That you are aware of?

24 UNKNOWN SPEAKER: No. They have not.

25 COMMISSIONER STRICKLAND: Now, the City

1 Attorney, the Assistant City Attorney who signed this
2 agreed order that we have in front of us, Allen R.
3 Griffin, has he contacted you to find out any
4 information about this property before it was submitted
5 to the court?

6 Did he find out, did he ask you about any
7 maintenance that was done on this property? Did he find
8 out anything about how long this has been sitting
9 vacant? Did he know -- did he contact staff at all to
10 ask any of these questions?

11 UNKNOWN SPEAKER: No. He did not.

12 COMMISSIONER STRICKLAND: I'll note that on
13 this agreed order, it does list it as a vacant structure
14 but at no point did the City Attorney of the City of
15 Dallas, Assistant City Attorney Allen Griffin ever
16 mention that this is, this property is located in an
17 historic district in his submittal to the court.

18 So it seems that the City Attorney's office
19 is of the opinion that the historic nature of our
20 neighborhoods and our properties is not material
21 information that they need to submit to courts when they
22 are asking for this demolition or at any point pursuing
23 demolition by neglect instead.

24 And I'm questioning why in this case the
25 Applicant -- why is the owner listed as the Applicant

1 and not the City Attorney who was the one who drafted
2 this agreed order and signed it?

3 UNKNOWN SPEAKER: Primarily because I
4 received a CD from a certificate of demolition from
5 Mr. Mendez that he completed and that he signed. And
6 so, and that he did an affidavit for it so then that,
7 from my perspective, made him the Applicant.

8 COMMISSIONER STRICKLAND: Was City Assistant
9 Attorney -- Assistant City Attorney Allen Griffin ever
10 notified of today's hearing and asked to come here to
11 explain his actions and why he did not represent this as
12 a historic property before the Court?

13 UNKNOWN SPEAKER: He was aware that it was
14 going to be on the agenda. I did not ask him to come,
15 but I notified him that it was going to be on the
16 agenda.

17 COMMISSIONER STRICKLAND: So he was aware
18 that there was a hearing and he has chosen not to be
19 here today? Thank you.

20 CHAIRWOMAN SEALE: Thank you, Commissioner
21 Strickland. Commission Richter.

22 COMMISSIONER RICHTER: Just to tag on to
23 that and looking at the Dallas County Appraisal
24 District's records, this is showing that this is a
25 vacant lot. It shows land value only, no improvements.

1 So they've already marked it off. The City is not even
2 having a structure on it.

3 So there are all kinds of issues with
4 nobody's paying attention on this.

5 CHAIRWOMAN SEALE: Thank you. Do we have a
6 motion, Commissioners?

7 COMMISSIONER SWANN: I have a motion.

8 CHAIRWOMAN SEALE: Commissioner Swann?

9 COMMISSIONER SWANN: With regard to
10 discussion item No. 4, 1121 East 9th Street, file No.
11 CD189-006, I move that we deny the application with the
12 finding that the proposed work will have an effect, an
13 adverse effect, on the historic overlay district.

14 CHAIRWOMAN SEALE: Do we have a second?
15 Thank you, Commissioner Swann, for the motion and
16 Commissioner De Le Harpe for seconding the motion to
17 deny the request with a finding that the request will
18 have a detrimental effect on the district, correct?

19 COMMISSIONER SWANN: Correct. Adverse
20 effect.

21 CHAIRWOMAN SEALE: Adverse effect. Thank
22 you. Yes, Counsel.

23 MS. HOLMES: If I might, we're at the
24 initial suspension period where there hasn't been an
25 interested party. And since there's been no one

1 identified, the Commission needs to grant the
2 certificate of demolition per the statute. It's a shell
3 grant.

4 CHAIRWOMAN SEALE: Thank you. Commissioner
5 Strickland.

6 COMMISSIONER STRICKLAND: I'll note that I
7 heard Mr. Dody say that the courts are rubber stamping
8 these motions for demolition because no information is
9 being presented otherwise to the courts.

10 And this entire process is showing that it's
11 backwards for us that all of the powers being held by a
12 vacant, absentee landowner who is striking an agreement
13 with the City Attorney's office that did not come here
14 today to testify, did not present to the Court that this
15 was -- this property was in an historic district and
16 with all of these material -- with all this material
17 evidence being withheld by any decisionmaker along the
18 way and we're the final step in this, I cannot agree
19 that this application is following what we as a
20 commission are tasked with preserving in our
21 neighborhoods.

22 So I will be supporting the motion because I
23 cannot agree with how the City Attorney's office is
24 handling these demolitions.

25 CHAIRWOMAN SEALE: Thank you, Commissioner.

1 Mr. Payton.

2 COMMISSIONER PAYTON: Yeah, I have to agree
3 with her because it just seems like it's just so, out of
4 all the things that could be done that something can be
5 done to help preserve this district. I mean, it's
6 almost like this district has been targeted.

7 , And every week is something in the 10th
8 Street Historic District that's standing in the shadows
9 of the wrecking ball. And I don't know if the people
10 who are buying into it are buying the neighborhood or
11 what's happening over there that nobody shows to say --
12 nobody comes down here to say anything about it one way
13 or another.

14 And you know, let's just, well, nobody said
15 anything, let's just go ahead and demolish it and that
16 answers all of our questions.

17 I'm not going -- I can't support again
18 another demolition in this little square area. It's
19 like out of all the areas in Dallas that 10th Street
20 Historic District is showing any interest to in the
21 preservation of it except Robert and a few people.

22 I don't know, I just, has it run its -- has
23 it run its course as far as appeals or is anybody
24 appealing to save it? What's happening with the 10th
25 Street Historic District that just last week another

1 house got demolished in the 10th Street Historic
2 District.

3 And now here it is we've got another one.
4 In two weeks, you know.

5 CHAIRWOMAN SEALE: Yeah, I think a lot of us
6 are shaking our heads. But we're going to go into
7 executive session. So it is now 3:54 p.m. on April 1st,
8 2019. The Landmark Commission will now go into closed
9 session under section 551.071 of the Texas Open Meetings
10 Act to receive advice from and consult with the City
11 Attorney on the following matters described on today's
12 agenda.

13 (End of requested audio excerpt.)

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1 STATE OF TEXAS)

2 COUNTY OF DALLAS)

3 I, Leslie McDonald Wilkins, Registered Professional
4 Reporter No. 029319, certify that the foregoing
5 proceeding was transcribed from an audio recording and
6 that it was transcribed to the best of my ability.

7 GIVEN UNDER MY HAND on this the 9th day of May, 2019.

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