

**AGENDA # 3**

City of Madison, Wisconsin

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**REPORT OF: LANDMARKS COMMISSION**

**PRESENTED: 4/16/18**

**TITLE:** Amending Section 41.14 of the Madison General Ordinances to create an obligation for property owners in historic districts and next to Landmarks to refrain from engaging in behavior that contributes to the exterior decay of a neighboring property and to create a process for property owners to avoid prosecution for failing to maintain their building if, through no fault of their own, they are being prevented from doing so by a neighbor.

**REFERRED:**

**REREFERRED:**

**REPORTED BACK:**

**AUTHOR:** Amy Scanlon, Secretary

**ADOPTED:**

**POF:**

**DATED:** 4/25/18

**ID NUMBER:** 50890

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Members present were: Stuart Levitan, Chair; Anna V. Andrzejewski, Vice Chair; David WJ McLean, Richard Arnesen, Marsha A. Rummel, Lon Hill, and Katie Kaliszewski.

**SUMMARY:**

*John Strange, representing the City of Madison Attorney's Office and available to answer questions.*

Levitan noted an error in the drafter's analysis. Strange took note. Strange clarified the sub. e addition to the amended ordinance.

Strange provided a summary of the ordinance revision.

There was general discussion regarding the ordinance.

Levitan asked if something preventative might be done on the part of the owner that feels his/her ability to maintain his/her property is being infringed upon – before the issuance of a citation. Strange indicated that it might be a possibility, but went on to say that it would be difficult for the Landmarks Commission to provide assistance in that capacity.

The Commission proposed various amendments (illustrated below) to the language which Strange agreed to insert.

In the second sentence of the second paragraph of the drafter's analysis, the Commission proposed the addition of the phrase "to refrain":

First, it creates Sec. 41.14(2)(d), which places an obligation on all owners of property in historic districts or on property directly abutting a landmark or landmark site **to refrain** from engaging in behavior that causes or may cause exterior decay or deterioration of a neighboring property.

In sub 3, they proposed the removal of text shown in strikethrough/bold. They proposed changing “notice” to “request,” and reordered some of the text. The bolded text was originally present elsewhere in the paragraph and, other than its location, was not altered

- (3) Public Hearing. ~~Upon receiving a notice under Sec. 41.14(2)(b),~~ A property owner may file a request with the Landmarks Commission for a public hearing if the property owner has made attempts to correct the alleged violation but has been prevented from doing so by a neighbor whose property directly abuts that of the property owner seeking relief. Upon receiving such ~~notice request,~~ the Landmarks Commission shall issue a hearing notice under Sec. 41.06 and hold a public hearing. If, after a public hearing, the Landmarks Commission finds that the property owner seeking relief has made efforts to correct the alleged violation but has been prevented from doing so by a directly abutting property owner, the Landmarks Commission shall find that reasonable efforts to maintain have been made. In considering whether efforts to maintain have been made under this section, the Landmarks Commission shall take into account whether the property owner seeking relief has also prevented his or her directly abutting neighbors from maintaining their own property. **Any enforcement of an alleged violation under Sec. 41.14(2)(b) shall be stayed pending the outcome of the public hearing under this Section. If such a finding is made, any enforcement of the alleged violation shall be suspended as to that violation and the finding may be used as a defense to a charge of Demolition by Neglect under Sec. 41.15. Furthermore, upon making such a finding, the Landmarks Commission shall report its finding to the Building Inspector for the issuance of a citation under Sec. 41.14(1)(d) or (e) above.** The Landmarks Commission decision under this section shall be a final administrative decision.

#### **ACTION:**

**A motion was made by Rummel and seconded by McLean to approve the proposed amendments to the ordinance. The motion passed on a voice vote.**

**A motion was made by Rummel and seconded by Arnesen to approve the ordinance revision as amended. The motion passed on a voice vote.**