

Applicant Guidance

Transfer of Development Rights from Landmarks

In 2024, the New York City Zoning Resolution was amended to provide a more streamlined approval process at the City Planning Commission (CPC) for [transfers of development rights \(TDR\) from individual landmarks](#) to a larger area of potential receiving sites than had been previously permitted. The intent behind the adoption of [Section 75-42 of the Zoning Resolution](#) is to make it easier and less expensive to transfer development rights from individual landmarks, especially in lower-density areas. The benefit of these changes for property owners includes financial assistance to help repair and ensure long-term maintenance of their landmark buildings. This program can also help with the creation of new housing.

Section 75-42 TDR applications must be certified by the Chairperson of the City Planning Commission, and as part of that process, the applicant must submit a report from the Landmarks Preservation Commission (LPC) confirming the existence of a continuing maintenance program. This guidance provides information on LPC’s process and requirements necessary to obtain the report to submit to CPC.

Overview of LPC’s 75-42 TDR Application Requirements

To transfer development rights using Section 75-42, LPC must approve a [Continuing Maintenance Program](#) for the individual landmark from which development rights are being transferred.

[Continuing Maintenance Programs](#) have two parts:

1. Up-front restoration and maintenance work to bring the building to a “sound” condition, based on an existing conditions report.
2. A [Continuing Maintenance Plan](#), which is a cyclical (periodic) maintenance program to maintain the condition of the building through periodic inspection every 7-10 years, identification of necessary work, and the obligation to perform that work.

Approval of the [Continuing Maintenance Program](#) requires a public hearing to review and approve the proposed work that will bring the landmark to a sound condition, and the [Continuing Maintenance Plan](#) to keep the landmark in sound condition in perpetuity. If approved, LPC issues a report confirming the continuing maintenance program.

What is Sound Condition?

To meet LPC’s requirements, the landmark must be in sound condition or must have a plan to return it to a sound condition. Sound condition is defined as a building that is structurally sound, watertight, has exterior architectural features that are in good condition, and major mechanical systems that are operable and in good repair. Sound condition may require aesthetic improvements such as facade cleaning, brick replacement, or

restoration of altered or missing architectural features, for example, a cornice or historic storefronts, to address conditions that detract from the exterior architectural condition of the building. The scope of work necessary to return a landmark building to sound condition also depends in part on the size and value of the transfer of development rights.

Sound condition means more than “good repair,” which is the minimum condition the Landmarks Law requires, and less than “first class” condition, which is a full restoration, as required by other sections of the zoning resolution.

Initial Work to Bring a Landmark Up to Sound Condition

Applicants must submit an “existing conditions report,” which is a detailed assessment documenting deterioration, material conditions, major mechanical systems, and structural concerns to guide restoration and renovation work for the entire building. Sample reports are available from LPC staff. The architect or preservationist preparing the report needs to be approved by LPC staff. LPC staff and the owner’s professionals use the existing conditions report to determine what work is necessary to bring a landmark to sound condition. If the building is already in good condition, little or no additional work may be required to bring it to a sound condition.

Once the scope of work necessary to bring the landmark to a sound condition is finalized, an estimate is obtained for the cost of the necessary work. An amount equal to twice the estimated cost is placed in an escrow or a segregated account established by the owner. As work is completed, funds can be drawn down from the escrow account. When the work is finished, LPC staff will sign off on the work, and any remaining funds in escrow will be returned to the owner. The obligation to complete this work remains even if the work ends up costing more than the amount put into escrow or the segregated account.

Continuing Maintenance Plan Requirements

As part of the continuing maintenance program, there is an obligation for a continuing maintenance plan, which is a plan for periodic inspection, identification of work, and the obligation to perform the work. Ten percent of the proceeds of the transfer must be placed in a segregated maintenance fund to be used solely to implement the cyclical inspections and follow-up work.

The continuing maintenance plan requires periodic inspections every 7 to 10 years, depending on the type of building and its architectural features; for example, wood frame buildings need to be inspected more frequently than masonry buildings. The inspection includes a report that identifies work that is required to maintain the landmark in sound condition. LPC staff must approve the scope of work identified in the report and may require more than what is identified. The approved work must be undertaken and completed within a specified timeframe. These inspections are performed by professionals pre-approved by LPC. The inspection obligation is in perpetuity.

In most cases, 10% of the gross value of the TDR sale must be placed into a fund dedicated to the future maintenance of the landmark. These funds can be used to pay for the inspections and repairs. These funds can be used to pay for the inspection and repairs. An accounting of the maintenance fund must be submitted to the LPC

each year, detailing and explaining all expenditures from the fund during the prior year. The obligation to implement the continuing maintenance program remains even after the maintenance fund is exhausted.

Maintenance plan requirements are memorialized in the report issued by LPC to CPC and a restrictive declaration that is recorded against the title of the landmark. LPC has a [template for the restrictive declaration](#).

If LPC approves the proposed work and maintenance plan, a favorable report is issued to CPC, which can then complete its review process.

What is Not Part of the Application to the LPC

The proposed development on the receiving site is not under LPC jurisdiction unless it is located in a historic district. There is no requirement that a harmonious relationship exists between the landmark and the new building; the design of the new building, its materials, and its massing are not reviewed by the Commission.

LPC Review Process

A kick-off meeting to discuss the requirements should be scheduled either before or immediately after submission of the application through LPC's online permitting system, [Portico](#). An LPC staff person will be assigned to your project and will help guide you through the process, [which requires a public hearing](#). Applicants for TDRs usually retain a qualified land use attorney to handle the legal aspects of the process.