

**CITY OF MINNEAPOLIS
NUISANCE CONDITION PROCESS REVIEW PANEL**

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 3229-31 4th Street N.
Minneapolis, Minnesota.**

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for hearing before the Nuisance Condition Process Review Panel on September 25, 2008, in City Council Chambers located in Minneapolis City Hall. Burt Osborne, chair, presided and other board members present included Patrick Todd, Bryan Tyner and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Brian Young and Wayne Murphy represented the Inspections Division. Mark Heitman of Caldwell Banker Burnett appeared on behalf of the owner Wells Fargo Bank. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 3229-31 4th Street N. is a four unit building in the McKinley neighborhood. The two-story structure was built in 1900. The building is 3,577 square feet, with 1,186 being the first floor, 1,205 being the second floor and 1,186 being the basement. The building sits on a 7,222 square-foot lot. There are two one-bedroom units and two three-bedroom units.

2. The property located at 3229-31 4th Street N. is in extreme disrepair. The building was condemned for being a boarded building on October 25, 2008, and a Code Compliance Inspection was completed on May 6, 2008, which indicated that the roof needs to be replaced or repaired, the chimney needs replacing, the stucco and siding needs to be repaired or replaced, the foundation is cracking and buckling and has settled. A new heating system needs to be installed.

There is an illegal unit in the basement that needs to be removed. A structural engineer needs to inspect and evaluate the basement beams; there are beams that are fixed with sistering, new beams with no inspections, 2 wood columns for support of unit to north with now inspection, beam supports and corrosion protection are below code. The structural engineer also needs to inspect and evaluate the basement joists; joists were cut from east to west the full length of the basement.

3. The Assessor rates the overall building condition as fair.

4. The Inspections Division of the City of Minneapolis determined that the property at 3229-31 4th Street N. met the definition of a Nuisance under Minneapolis Code of Ordinances (hereinafter "M.C.O.") § 249.30. The applicable sections of M.C.O. § 249.30. provide that *(a) A building within the city shall be deemed a nuisance condition if:*

(1) It is vacant and unoccupied for the purpose for which it was erected and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least six (6) months.

(2) The building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, or the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days.

(3) *Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building; or*

(4) *Evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.*

5. Pursuant to M.C.O. § 249.40(1) the building was examined by the Department of Inspections to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition. Considering the criteria listed in M.C.O. § 249.40(1) the Inspections Department found:

a. The estimated cost to rehabilitate the building is \$210,807 to \$357,078 based on the MEANS square footage estimate. The assessed value of the property in 2007 was \$260,000; the 2008 assessed value is \$130,000 (2008), a drop of \$130,000.

b. The Preservation and Design Team staff conducted a historic review of the property finding that the property's historical integrity are impaired due to past work or current conditions, but the property still exhibits features and design that make the structure work rehabilitation; however, demolition is okay and the demolition permits have been signed and returned.

d. The McKinley Community and property owners within 350 feet of 3229-31 4th Street N. were mailed a request for a community impact statement. The Department of Inspections received six in return. Five said the house has a negative impact on the neighborhood, does not fit the housing needs of the neighborhood and should be demolished. One said it had a negative impact but

recommended rehabilitation if possible. The neighborhood association called it “another crappy rental” and said it once fit the housing needs of the neighborhood but not any longer.

d. The vacant housing rate in the McKinley neighborhood is around 9%. Of the approximately 945 houses on the city’s Vacant Building Registration, 35 are in the McKinley neighborhood, a neighborhood of approximately 1,167 housing units.

6. Regina Weah and Victor Young purchased the property located at 3229-31 4th Street N. on December 28, 2004; the property went into foreclosure; and sheriff’s sale was conducted on March 20, 2007, with Wells Fargo Bank submitting the highest bid at \$205,631.05. The redemption period expired on September 20, 2007.

7. On October 25, 2007, the property was condemned for being a boarded building and added to the City’s Vacant Building Registration. The property has remained vacant and boarded since the current owner has gained possession of the property.

8. Taking into account the criteria listed in § 249.40(1) a notice of the Director’s Order to Raze and Remove was mailed on July 23, 2008, to Barclay’s Capital RE, Inc.; Argent Mortgage Co, L.L.C.; Ameriquest Mortgage Co.; Regina Weah and Victor Young; Shapiro, Nordmeyer & Zielke; Mark Heitman c/o Coldwell Banker Burnet and Wells Fargo Bank NA Trust. On August 12, 2008, Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke filed an appeal on behalf of Wells Fargo Bank indicating that the “Appellant has found a buyer who is willing to rehabilitate the property and the closing is scheduled for September 3, 2008.” A copy of the purchase agreement was supplied showing that Funhomes Properties L.L.C. was buying the property “as-is” for \$12,000.

9. The potential owners have not submitted an estimate on the proposed rehabilitation of the property nor have they met with City staff to outline their plan to rehabilitate the property.

CONCLUSIONS

1. The building located at 3229-31 4th Street N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(1) as the building is vacant and unoccupied for the purpose for which it was erected and the building has remained in such a condition for a period of at least six months.

2. The building located at 3229-31 4th Street N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty days.

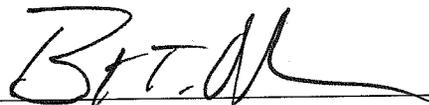
3. The building located at 3229-31 4th Street N. meets the definition of a nuisance condition as set forth in M.C.O. § 249.30(a)(3) as evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building.

4. The building located at 3229-31 4th Street N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.

5. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, the Director of Inspection's recommendation to raze the building located at 3229-31 4th Street N. is appropriate. The building meets the definition of a nuisance condition as defined by M.C.O. § 249.30 and a preponderance of the evidence, based upon the criteria listed in M.C.O. § 249.40, demonstrates that razing the building is appropriate. The building has been vacant and boarded for approximately one year. The current owner has not attempted to rehabilitate the property and has tried to sell the property. The current owner has a potential sale of the property but the potential owner has not submitted any plans to rehabilitate the property nor have the met with City staff to attempt to complete a restoration agreement. This property has been neglected to the point that it has had a negative impact on the community and will continue to have a negative impact if it is not razed as attested to by the community impact statements submitted by neighbors requesting that the building be torn down.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3229-31 4th Street N. Minneapolis, Minnesota, be upheld.



Burt Osborne
Chair,
Nuisance Condition Process Review Panel