

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 401 Logan Avenue N.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on March 11, 2010. Patrick Todd, acting chair, presided and other board members present included Bryan Tyner, and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Grant Wilson represented the Inspections Division at the hearings. The owners of the property did not appear at the hearing instead submitting a written statement requesting a thirty day extension of the order to raze. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 401 Logan Avenue N. is a duplex in the Harrison Neighborhood. The two story structure was built in 1900. The building is 2,036 square feet and sits on a 5,292 square foot lot.
2. The property located at 401 Logan Avenue N. has been determined to be substandard. There are 18 open housing orders, including but not limited to orders to repair the support system as structural integrity of the basement walls and foundation are compromised, address standing water in the basement, remove and clean basement of all construction debris, provide proper ground cover, repair/replace window screens, replace bathroom broken window glass, provide handrail for stairs to basement, and repair door to basement.
3. The Assessor rates the overall building condition as fair but uninhabitable.

4. The Inspections Division of the City of Minneapolis determined that the property at 401 Logan Avenue 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.

(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 located at 401 Logan Avenue N. 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 \$109,796 to \$185,984 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$193,000 and \$60,000 for 2009. The 2010 taxable value of the property is \$54,000. The after rehab market value is estimated at \$150,000, based on the assessment of the CPED contracted appraiser.

b. The Harrison Neighborhood Association and property owners within 350 feet of 401 Logan Avenue N. were mailed a request for community impact statements. The Department of Inspections received two (2) in response. Both responses stated that the property has had a negative impact on the community, one response stated that the property should be torn down the other stated that the property should be torn down or completely rehabbed.

c. In 2000 the vacant housing rate in the Harrison Neighborhood was around 8%. Of the approximately 824 houses on the city's Vacant Building Registration, 17 are in the Harrison Neighborhood, a neighborhood of approximately 1,330 housing units.

6. The building located at 401 Logan Avenue N. was condemned for lack of maintenance on June 6, 2008 and condemned for being a boarded building on September 8, 2008. The building has remained vacant and boarded since the fall of 2008.

7. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Raze and Remove was mailed on June 5, 2009, to GMAC Mortgage LLC.; Alean Burks; Wilford & Geske and MERS. On June 25, 2009, Mark T. Burhow, Esq. filed an appeal

on behalf of his client GMAC Mortgage. In the appeal Mr. Burhow stated that GMAC Mortgage was appealing the property based upon the standards set forth in Chapter 249 and in order to provide GMAC sufficient time to donate the subject property in lieu of demolition.

8. Attempts to donate the property through the Community Planning and Economic Development Department were unsuccessful and on August 18, 2009, GMAC Mortgage sold the property to Stonecrest Income and Opportunity Fund 1.

9. On February 22, 2010, an appeal hearing was set for March 11, 2010 with notice of the hearing sent to Stonecrest Income and Opportunity Fund 1 at 4300 Stevens Creek Blvd, Ste 275 San Jose, CA 95129.

10. On March 10, 2010, a letter was received from Robert D. Rinehart of DBNR Investments indicating that they were the owners of 401 Logan Avenue N. The letter indicated that they had just received notice of the March 11, 2010, hearing and were requesting a thirty (30) day extension to find a buyer and obtain an executed purchase contract.

CONCLUSIONS

1. The building located at 401 Logan Avenue 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 401 Logan Avenue N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as 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

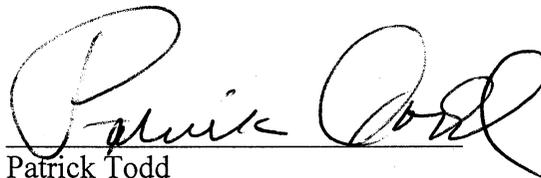
set out in the Minneapolis housing maintenance code, and the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days.

3. The building located at 401 Logan Avenue N. meets the definition of a nuisance condition as set forth in M.C.O. § 249.30(a)(4) as 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.

4. The building located at 401 Logan Avenue N. 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 the building needs to be razed. The building has been vacant and boarded for over a year and one half. The new owners do not have a plan in place to rehabilitate the property and have no estimate as to the cost of rehabilitation, the owner appear to have bought the property with only the hope to sell the property to someone who would be willing to rehabilitate the property. With no plan in place to rehabilitate the property and no timeline to complete any rehabilitation the building will continue to be a nuisance in the neighborhood and affect the values of the surrounding properties.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 401 Logan Avenue N., Minneapolis, Minnesota, be upheld.



Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel