

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2501 Golden Valley Rd.,
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on March 8, 2012, in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, chair, presided and other board members present included Peter Pelletier, Ben Foster and Darrell Washington. The matter was continued and heard again at the May 10, 2012, hearing of the Nuisance Condition Process Review Panel, which was chaired by Noah Schuchman and other board members present included Ben Foster and Pete Pelletier. The matter was also heard on August 9, 2012, where Noah Schuchman, chair, presided and other board members present included Jim Dahl, Patrick Todd and Darrell Washington. The matter came before the Review Panel a final time on January 10, 2013, where Panel Chair, Noah Schuchman again presided and other members of the Panel consisted of Mike Rumppe, Patrick Todd and Elfric Porte. Assistant City Attorney Lee C. Wolf was present for all the hearings as *ex officio* counsel to the board. Kellie Jones represented the Inspections Division at all hearings. Mahmood Khan, owner of 2501 Golden Valley Road, was present for all the hearings and was represented by counsel James Heiberg at the August 8, 2012 and January 10, 2013 hearings. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2501 Golden Valley Road is an eleven-unit apartment building in the Willard-Hay neighborhood. The two story structure was built in 1929. The building is 10,815 square feet and sits on a 9,630 square foot lot.

2. The property has been determined to be in substandard condition. The structure was damaged by a tornado in Minneapolis on May 22, 2011, with damage to the roof, roof overhang, windows and brick-face. After the tornado damaged the building it was boarded and has remained vacant and boarded since the tornado damaged the property.

3. The City Assessor's Office rates the overall building condition as poor.

4. On December 22, 2011, a Director's Order to Demolish the property located at 2501 Golden Valley Road was sent to Mahmood Khan, owner of the property, based upon the Inspections Division of the City of Minneapolis' determination that the property at 2501 Golden Valley Road 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. On January 10, 2012, the owner, Mahmood Khan filed an appeal of the Director's Order to Demolish, stating "Due process violations, arbitrary act, not sufficient cause, working with insurance company to settle claims and make repairs. The building was vandalized after the tornado and the plumbing, electrical and heating was damaged making it more difficult with insurance company to settle the claim."

6. 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 \$618,660 to \$870,545 based on the MEANS square footage estimate. The assessed value of the property in 2011, was \$297,500. The 2010 assessed value was \$297,500 and in 2009, the assessed value was \$313,000. The after rehabilitation value of the property is estimated at \$352,000 to \$374,000 per the CPED contracted appraiser.

b. The Northside Residents Redevelopment Council and property owners within 350 feet of 2501 Golden Valley Road were mailed a request for community impact statements. The Department of Inspections received three (3) in response. All three responses stated that the property has had a negative impact on the community and should be demolished. One of the responses stated that if anything good comes out of this tornado it would be that this building gets demolished. It has been a terrible blight to our neighborhood for years. Another response stated that since the tornado the yard has not even been picked up and that the property is a health and safety hazard. The last response stated that the property has been the source of numerous police calls due to fighting and drug dealing.

c. The Preservation and Design Team staff conducted a historic review of the property, finding that the property may constitute a historic resource. Therefore the property will need to be reviewed by the Heritage Preservation Commission and the Commission would have to approve the demolition before the property could be demolished.

d. The vacant housing rate in the Willard-Hay neighborhood was around 11.1%. Of the approximately 755 houses on the city's Vacant Building Registration, 88 are in the Willard-Hay neighborhood, a neighborhood of approximately 3,017 housing units.

7. Based on the condition of the property, the cost to rehabilitate and the after-market rehab value, the Department recommended that the property should be demolished in order to eliminate the nuisance condition the property constituted. The owner, Mahmood Khan appeared

at the March 8, 2012, appeals hearing and requested time to put together a rehabilitation plan for the property and present it to Department staff, the hearing was then continued to May 10, 2012.

8. At the May 10, 2012, appeals hearing Kellie Jones, Director of the Problem Properties Unit stated that staff had not been able to complete a restoration agreement with Mr. Khan. Ms. Jones stated that the Department had requested from Mr. Khan a detailed list of everything that needed to be repaired in the property as well as a cost that his contractors would require to fix the property. Ms. Jones stated that they had received no such documentation from Mr. Khan.

9. Mr. Khan stated that no progress had been made towards a restoration agreement but stated that he had settled his claim with his insurance company in the amount of approximately \$400,000.00. Mr. Khan stated that if given the opportunity to complete the repairs the property would have new furnaces, new water system, new heating system, new electrical because there had been a lot of vandalism and he would have to replace all the listed items.

10. After hearing from all parties the Review Panel voted, finding that the property constituted a nuisance pursuant to M.C.O. § 244.1930(a) (2), (3) and (4) and voted to recommend, to the Regulatory, Energy and Environment Committee (RE & E Committee) of the Minneapolis City Council, that the property should be demolished to alleviate the nuisance condition.

11. Prior to the matter being heard by the RE & E Committee, the matter was heard before the Minneapolis Heritage Preservation Commission on July 24, 2012. The Heritage Preservation Commission took action approving demolition of the property but delayed the approval to demolish until December 31, 2012, to allow the interested parties a reasonable opportunity to take action to protect the property and work on a resolution that would avoid demolition.

12. Based upon the decision of the Heritage Preservation Commission and information submitted by Mr. Khan to the Heritage Preservation Commission the matter was brought back to the Review Panel on August 9, 2012.

13. At the August 9, 2012, Review Panel hearing the Review Panel heard evidence regarding the decision of the Heritage Preservation Commission and also heard that Mr. Khan had settled with his insurance company, although the terms of the settlement were not given to the Review Panel. The Review Panel heard that the property's roof had been re-framed and re-shingled and that the permit had been issued so that further damage would not be done to the interior of the property while the process was going forward. The Review Panel also heard from Department Staff that a more detailed rehabilitation plan with corresponding costs would still need to be submitted and that the Staff still had concerns that the after-market value of the property would be half of the cost of rehabilitating the property. The Review Panel voted to find that the property constituted a nuisance and that the property should be demolished.

14. After the August 9, 2012, Review Panel hearing North Star Bank, the lender holding the mortgage for 2501 Golden Valley Road, requested an opportunity to meet with Department Staff in hopes of putting together a plan to rehabilitate the property with the bank authorizing a construction loan to Mr. Khan and the bank supervising the construction project. North Star Bank, its attorney, Mr. Khan and his attorney met with Department Staff to discuss North Star Bank's proposal to make a rehabilitation loan to Mr. Khan, which was necessary since the insurance would only pay out its settlement once the work was completed and Mr. Khan would need to pay his contractors when they did their work. Department staff agreed to let bank and Mr. Khan work on a possible rehabilitation loan and the terms of that loan, and to bring any such agreement back to the Review Panel for consideration.

15. On January 2, 2013, the attorney for North Star Bank issued a letter that stated that North Star Bank and Mr. Khan could not come to an agreement regarding a loan for the rehabilitation of the property and therefore the bank would not be making a loan to Mr. Khan.

16. On January 10, 2013, the matter was brought back to the Review Panel for hearing based upon the new information regarding the attempts of North Star Bank to work on financing of the rehabilitation and the passing of the Heritage Preservation Commission's stay of its approval of the Demolition of Historic Resource application.

17. At the January 10, 2013, hearing the Review Panel heard testimony and received the letter from North Star Bank's attorney, detailing the inability of North Star Bank to work out a rehabilitation loan with Mr. Khan. Mr. Khan testified that he had \$250,000.00 in funds from the insurance company to work on the rehabilitation of the property. The City's estimate to rehabilitate the property was \$618,660 to \$870,545 based on the MEANS square footage estimate, while Mr. Khan's estimate was \$377,000.00, thus even taking Mr. Khan's low end estimate there was still \$127,000.00 gap in the necessary financing of any rehabilitation. Based upon this concern regarding the lack of financing to complete an appropriate rehabilitation and additional concerns that the cost of rehabilitation greatly outweighed the aftermarket value of the property, Department Staff recommended demolition of the property.

CONCLUSIONS

1. The building located at 2501 Golden Valley Road 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 2501 Golden Valley Road 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 (60) days.

3. The building located at 2501 Golden Valley Road meets the definition of 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 2501 Golden Valley Road 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.

5. The building located at 2501 Golden Valley Road 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 should be demolished. The building was damaged by a tornado on May 22, 2011, and the evidence is clear that the owner took no steps to make any repairs at the property until the Director's Order to Demolish was sent in December of 2011, some seven months later. During that time the building has remained vacant and boarded and the interior was vandalized to the point where most of the mechanical systems would need to be replaced. The extent of the repairs required to make the

property livable, from the interior mechanical systems to the exterior, which was damaged by the tornado, make the rehabilitation unjustifiable when compared to the after rehabilitation value of the property. Furthermore the owner has not put together a rehabilitation plan complete with costs associated with specific repair nor has he shown the financial ability to complete a quality rehabilitation of the property. Without a complete plan for the rehabilitation of the property the property will continue to be a nuisance to the neighborhood and will remain vacant and boarded which will also negatively affect the values of the surrounding properties.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2501 Golden Valley Road, Minneapolis, Minnesota, be upheld.

Noah Schuchman
Chair,
Nuisance Condition Process Review Panel