

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

**In the matter of the Appeal of
Director's Order To
Demolish the Garage
Located at 3118 Park Avenue
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on August 14, 2014, September 18, 2014, November 13, 2014 and January 15, 2015 in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, chair, presided and other board members present at the August 14, 2014, hearing included Mike Rumppe, and Patrick Todd. At the September 18, 2014, hearing Noah Schuchman, chair, presided and other board members present included Mike Rumppe, Patrick Todd and Elfric Porte. At the November 13, 2014, hearing Noah Schuchman, chair, presided and other board members present included Perry Ebner and Dustin Brandt

. At the January 15, 2015, hearing, Noah Schuchman, chair, presided and other board members present included Patrick Todd, Mike Rumppe and Dustin Brandt. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board at both hearings. Wayne Murphy represented the Inspections Division of the Department of Regulatory Services at all the hearings. At the August 14, 2014, hearing, the owner, David Newell, appeared and spoke on his own behalf. At the September 18, 2014, hearing no one representing the owner appeared at the hearing. At the November 13, 2014, hearing, the owner David Newell, appeared with his wife. At the January 15, 2015, hearing no one representing the owner appeared at the hearing. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 3118 Park Avenue is a single family dwelling in the Central neighborhood. 3118 Park Avenue has a garage that is accessory to the single family dwelling. The garage is a two-story, 3-car garage built around 1900. The garage is 560 square feet and sits on a 5,631 square foot lot.

2. The garage at 3118 Park Avenue has been determined to be in substandard condition. There are structural concerns and multiple violations of the Minneapolis Housing Maintenance Code. These include but may not be limited to: repair the foundation to a stable condition; repair all open holes in the soffit, eaves, roof and side walls; repair the garage doors of any damage so that they may be opened and closed properly; repair the service door of any damage so that it may be opened and closed properly and repair the structure to prevent leaning.

3. The City Assessor's Office rates the overall building condition as "average minus."

4. On May 2, 2014, a Director's Order to Demolish the garage at 3118 Park Avenue was sent to David Newell, based upon the Inspections Division of the City of Minneapolis' determination that the garage at 3118 Park Avenue met the definition of a Nuisance under Minneapolis Code of Ordinances (hereinafter "M.C.O.") § 249.30. The applicable section of M.C.O. § 249.30. provides that:

(c) Notwithstanding the foregoing provisions, accessory buildings such as garages, barns and other similar structures, not intended to be used for human habitation, shall be deemed to constitute a nuisance condition when such buildings are in violation of section 244.1560 of the housing maintenance code which regulates nondwelling structures or when such accessory buildings are structurally unsound in the opinion of the director of regulatory services.

M.C.O. § 244.1560, provides:

Construction, maintenance of nondwelling structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every nondwelling structure shall be so constructed and maintained as to prevent the structure from becoming a harborage for rats. Each entranceway for persons or vehicles in any such structure on residential property shall have exterior doors. All such structures and exterior doors shall be kept in good workmanlike state of maintenance and repair. All exterior surfaces of nondwelling structures shall be of a material manufactured or processed specifically for use in such a weather-exposed location. Nondwelling structures shall not be used for the storage of garbage or rubbish unless such garbage or rubbish is placed in an approved container or stored in a manner so as not to constitute a health or safety hazard.

5. On June 6, 2014, an appeal was received from David Newell. The appeal stated that “Plans to repair garage. It is an 1891 carriage historical house that cannot be rebuilt, along with the fact that we have already completed other repairs.”

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 garage is \$12,385.00 to \$18,575.00 based on the MEANS square footage estimate. The assessed value of the entire property in 2011, 2012 and 2013 was \$171,000.00. The assessed value in 2014 was \$184,500.00. The contributory property value of the garage, as determined by a CPED contracted appraiser, is \$9,500.00

b. The Central Neighborhood Development Association and property owners within 350 feet of 3118 Park Avenue, were mailed a request for community impact statements. The Department of Inspections received three (3) in response. Two stated that if the owner can rehabilitate the property to do so, and one stated that the property had a negative impact, that it is in poor structural condition and protruding into the alley creating a hazard. They were also concerned about the garage collapsing into the alley.

c. The Preservation and Design Team staff conducted a historic review of the property finding that the property does not constitute a historic resource and the demolition permits have been signed and returned to Minneapolis Development Review.

7. At the August 14, 2014, hearing the Department stated that orders to repair the garage were originally issued in August of 2009, and the structure has continued to deteriorate through neglect. Department staff met with the owner and his contractor in July of 2014, to discuss the appeal and potential rehabilitation of the property. An engineer's report was submitted to the Department on August 4, 2014. Staff reviewed the report and requested a cost estimate and scope of work explaining how the contractor would accomplish the recommendations of the engineer. No report was forwarded to the Department for review. The engineer's report calls for an excavation along the west side wall in order to construct a footing and foundation wall to 42 inches below grade. If the alley is not closed, it would require the work to be completed from the interior side of the garage as the structure is at the alley line. This would require that the interior slab be sawcut and removed to provide enough clearance to excavate a trench. It is also not clear how the alley wall will be supported during the rehabilitation. There are also concerns

as there is a potential to undermine the alley. Should there be a soil collapse and/or damage to the alley, there may be additional costs to the project from Public Works.

8. Mr. Newell testified that there was a plan to rehabilitate the property in three phases: phase 1- to place new footings; phase 2- to restructure the wall; and phase 3- cosmetic repairs to the garage.

9. The Panel continued the matter for one month to allow Mr. Newell time to submit a proposal that would show how the owner would accomplish the items listed in the August 4, 2014, engineer's report.

10. The hearing resumed on September 18, 2014, and Mr. Newell did not appear nor did any individual representing Mr. Newell. The Department reported that they received no proposals from the owner nor had they supplied any new reports. The owner was contacted with a reminder of the new hearing date on September 12, 2014. Wayne Murphy of the Department testified that he had phone contact with Mr. Newell on September 2, 2014, and the Mr. Newell's contractor called on September 4, 2014, but hung up during the conversation.

11. The matter was forwarded to the Community Development and Regulatory Services (CD & RS) Committee of the Minneapolis City Council with a recommendation to demolish the garage.

12. On October 21, the CD & RS Committee met to hear arguments regarding the possible demolition of the garage at 3118 Park Avenue. At the Committee hearing, the owner, David Newell, attempted to present additional information to the Committee. Pursuant M.C.O. § 249.45 (j), the Committee could receive no new information at the hearing but voted to refer the matter back to the Nuisance Condition Process Review Panel for the consideration of the new information.

13. On November 13, 2014, the matter was again heard by the Nuisance Condition Process Review Panel to consider the new information which constituted a contractor letter and a materials estimate. During the hearing the owner and the Department agreed to meet to discuss the potential garage repair. The owners were told that a line item estimate would be needed as well as a Structural Engineer's report and the hearing was continued to January 15, 2015.

14. On December 5, 2014, the owners met with the Department where the Department explained to the owners why an estimate was necessary as there were no plans or drawings, that there were discrepancies between the engineer's report, the contractor's report and the submitted line item estimate. Department staff also requested a revised or amended engineer's report and a subsequently revised quantities and estimates. The owners informed Department staff that requested documents would be forwarded as soon as possible.

15. The owners were informed of the January 15, 2015, hearing both electronically and by US Postal Service. Prior to the January 15, 2015, hearing, the Department received no communications from the owners and did not receive any of the requested documentation as requested at the December 5, 2014, meeting with the owners.

CONCLUSIONS

1. The garage located at 3118 Park Avenue meets the definition of nuisance condition as set forth in M.C.O. § 249.30(c) as the garage does not meet standards set for a non-dwelling structure listed in M.C.O. § 244.1560 as the outstanding orders on the garage include; repair the foundation to a stable condition; repair all open holes in the soffit, eaves, roof and side walls; repair the garage doors of any damage so that they may be opened and closed properly;

repair the service door of any damage so that it may be opened and closed properly and repair the structure to prevent leaning.

2. The condition of the garage structure, the staff estimates for the rehabilitation of the garage and the owner's failure to follow up on his statements to Department staff that he would submit new/amended engineer's report with a viable cost estimate and explanation as to how the recommendations of the engineer's report would be accomplished, reveal that the owner has not taken/nor will take the steps necessary to make the building safe.

RECOMMENDATION

That the garage located at 3118 Park Avenue, Minneapolis, Minnesota, be demolished so that it no longer constitutes a nuisance condition.

Noah Schuchman
Chair,
Nuisance Condition Process Review Panel