CITY OF MINNEAPOLIS
NUISANCE CONDITION PROCESS REVIEW PANEL

In the matter of the Appeal of Director's Order To Demolish the Property Located at 822 26th Ave. N.E. Minneapolis, Minnesota.	**FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION**

This matter came on for hearing before the Nuisance Condition Process Review Panel at Rental Dwelling License Board of Appeals on July 12, 2007 and August 9, 2007 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided over the hearing on July 12, 2007. Other board members present included Patrick Todd and Brad Schmoll. On August 9, 2007 Patrick Todd presided and other board members included Dave Dewall and Elfric Porte and Grant Wilson. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Dan Nizolek, Manager Minneapolis Problem Properties Unit, and Wayne Murphy represented the Inspections Division. James Ahlvers, the owner of the property, appeared at both the July 12, 2007 hearing and the August 9, 2007 hearing. Also present at the July 12, 2007 hearing was Holly Siasoco, a neighbor who lives near 822 26th Ave. N.E. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. James and Deveny Ahlvers are owners of the property located at 822 26th Ave. N.E., Minneapolis, Minnesota. The structure is a two story wood-framed single family house built in 1900. The house has three bedrooms and one full bathroom and sits on an irregularly shaped lot measuring 31 ft by 93 ft. Mr. and Mrs. Ahlvers purchased the property in April 2005 and it has

been vacant since they purchased it. The building was condemned on April 23, 2007 for being a boarded building. The Assessor rates the building as being in average condition and inhabitable.

2. The Inspections Division of the City of Minneapolis determined that the property at 1539 26th Street E meets 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; or

(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.

(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.

3. 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 $106,500 based on the MEANS square footage estimate. The assessed value of the property is $155,000 (2007). The estimated market value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is $106,500. The Assessor rates the condition of the building as average but inhabitable. The property has no architectural or historic value/designation.

b. There is an outstanding water bill in the amount of $163.20.

c. The Holland Neighborhood Association and the owners of properties within 350 feet of 822 26th Ave. N.E. were mailed a request for a community impact statement. The department received 4 in return all of which recommended demolition. All commented that the property has had a negative impact on the neighborhood.

d. In 2000, the Holland Neighborhood had 1978 housing units; 1869 were occupied and 109 were vacant. The vacancy rate in 2000 was 5.5%. Rental units made up more than half of the occupied housing units in the Holland Neighborhood in 1980 and 1990. In 2000, however, owner-occupied units increased to 51.2% of the occupied housing units. Of the approximately 537 houses on the city's Vacant Building Registration, 11 are in the Holland Neighborhood.

4. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on June 6, 2007 to James and Deveny Ahlvers, the owner of record according to Minneapolis Property Information, and Mercantile Mortgage Co.

5. On June 21, 2007 James and Deveny Ahlvers filed an appeal of the Director's order to demolish pursuant to M.C.O. § 249.45(c) and a hearing was scheduled for July 12, 2007.

6. On July 12, 2007 James Ahlvers was present and indicated that he was planning to rehabilitate the property and had scheduled a code compliance inspection for July 23, 2007. Mr. Ahlvers requested a continuance so the code compliance inspection could be completed and he could meet with Department of Inspections staff to work out the details of a restoration agreement.

7. At the July 12, 2007 Ms. Holly Siasoco appeared and stated that she was a neighbor of 822 26th Ave. N.E. Ms. Siasoco stated that the property had a negative impact in the neighborhood due to persons loitering on the porch and possible drug dealing and prostitution that was occurring around this vacant building.

8. The matter was continued to August 9, 2007 for the code compliance inspection to be completed and for a restoration agreement to be worked out between the Department of Inspections and Mr. Ahlvers.

9. On August 9, 2007 Mr. Ahlvers appeared and indicated that the code compliance inspection had been conducted on July 23, 2007. Wayne Murphy of the Department of Inspections stated that Department Staff had met with Mr. Ahlvers and had worked out the details of a restoration agreement but that it had yet to be finalized.

10. Wayne Murphy stated that the Department would change its recommendation to demolish the building to recommending a stay of the demolition for six months on the conditions that the owner fulfill all the conditions of the restoration agreement including possible penalties for not having the work completed in the allowed time frame and that the owner agreed to maintain the property while the rehabilitation was occurring.

CONCLUSIONS

1. The building located at 822 26th Ave. N.E. 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 822 26th Ave. N.E. meets the definition of 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.

3. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's revised recommendation to rehabilitate the building located at 822 26th Ave. N.E. is appropriate. Although the building meets the definition of a nuisance condition as defined by M.C.O. § 249.30 a preponderance of the evidence, based upon the criteria listed in M.C.O. § 249.40, demonstrates that rehabilitation of the building is appropriate. Although the building has been vacant for over one year, the owner has taken the steps necessary to bring this property back to a place where it can be a positive in the community. The owner has completed a Code Compliance Inspection and has met with Department of Inspections Staff to complete a restoration agreement and appears to have the ability to complete this project.

RECOMMENDATION

That the Director of Inspections' revised recommendation to stay demolition to allow for rehabilitation of the building located at 822 26th Ave. N.E., Minneapolis, Minnesota be upheld on the condition that Mr. Ahlvers completes all the conditions listed in the restoration agreement and maintains the lawn and yard at the property in a proper manner while the rehabilitation is ongoing.

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Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel