

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 1539 26th Street E.
in 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 Niziolek, Manager Minneapolis Problem Properties Unit, and Wayne Murphy represented the Inspections Division. Kristine Spiegelberg of the Law Firm of Shapiro, Nordmeyer & Zielke appeared on behalf of the owner Deutsch Bank at the July 12, 2007 hearing. Also present at the July 12, 2007 hearing was David Klien who was set to purchase the property and close on the transaction on July 23, 2007 and Carol Pass, President of the Neighborhood Association Housing Task Force. Mr. Klien was also present for the August 9, 2007 hearing. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. David and Charlene Klien are owners of the property located at 1539 26th St. E., Minneapolis, Minnesota. The structure is a wood-framed stucco duplex in the East Phillips

neighborhood. The two-story house was built in 1925. The building is 2,080 square feet and sits on a 4,111 square foot lot. Each unit has two bedrooms and one full bathroom. There is a two-car stucco garage on the parcel. The building was condemned on October 16, 2006 for being a boarded building. There are ten outstanding housing violations, including repair screens, repair or replace guardrail, repair garage, repair walls, repair plumbing fixtures and repair outlets and switches. The Assessor rates the building as being in average condition.

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 \$176,800 to \$197,000 based on the MEANS square footage estimate. The assessed value of the property is \$227,700 (2005), \$230,200 (2006) and \$260,000 (2007). The estimated market value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$166,400. The Assessor rates the condition of the building as average. The property has no architectural or historic value/designation.

b. There are five special assessments pending for 2007 totaling \$2,772.50, three special assessments were levied in 2006 in the amount of \$1,860.

c. The East Phillips Area Community Council and the owners of properties within 350 feet of 1539 26th St. E. were mailed a request for a community impact statement. The department received 1 in return which suggested that the house should be moved to accommodate a parking lot for the commercial building. In addition Carol Pass, President of the Neighborhood Associations Housing Task Force appeared at the July 12, 2007 hearing and stated that the building should not be demolished and should be rehabilitated.

d. In 2000, there were 1090 occupied housing units in the East Phillips neighborhood and approximately 72 vacant units. Of the approximately 517

houses on the city's Vacant Building Registration, 21 are in the East Phillips Neighborhood, a neighborhood of approximately 1162 housing units.

4. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on May 3, 2007 to Jose V. Alvarado, the owner of record according to Minneapolis Property Information, Deutsche Bank Trust Company, Vision Financial & Home Mortgage Inc., and Shapiro Nordmeyer & Zielke L.L.P.

5. On May 23, 2007 the Law Firm of Shapiro Nordmeyer & Zielke, on behalf of Deutsche Bank 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 June 11, 2007 a Code Compliance Inspection was conducted at the property. Orders written during the inspection include providing a heating system that can maintain a minimum of 68 degrees, replace older boiler, remove and replace water heater to close, remove basement water closet, cap open gas line on first floor or install gas range, replace undersized water piping, repair or replace all broken and missing storm windows and primary windows, provide water-impervious bathroom floor, repair or replace doors and/or frames, provide shades/drapes/blinds in baths and bedrooms, repair/replace cabinets and counters, repair/replace missing tiles and torn flooring, repair/refinish all deteriorated walls and ceilings, remove substandard paint and properly prepare surfaces, deal appropriately with any lead-based paint, install proper parking surface, prepare and paint garage, repair/remove fence, repair/replace exterior walls, repair/replace deteriorating roof overhang, provide screens.

7. On July 12, 2007 Kristine Spiegelberg representing the owner Deutsche Bank was present and indicated that the bank had found a purchaser for the property and indicated that the closing would occur on July 23, 2007. Mr. David Klien the potential purchaser of the property

stated that he was prepared to purchase the property and would be willing to enter into a restoration agreement with the Department of Inspections to rehabilitate the property.

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

9. On August 9, 2007 David Klien appeared. Wayne Murphy of the Department of Inspections stated that Department Staff had met with Mr. Klien and had worked out the details of a restoration agreement that would be finalized when Mr. Klien posted a performance bond in the amount of \$30,000.

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.

CONCLUSIONS

1. The building located at 1539 26th Street 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 1539 26th Street E. 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 1539 26th Street 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.

4. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's revised recommendation to rehabilitate the building located at 1539 26th Street 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 and boarded for almost one year, a new owner has purchased the property and has taken positive steps towards bringing 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 1539 26th Street E. Minneapolis, Minnesota be upheld.

Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel