

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2432 14th Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on April 14, 2011, in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, chair, presided and other board members present included Patrick Todd, Darrell Washington and Shari Pierzina. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Kellie Jones represented the Inspections Division. Michael Buhl, owner of 2432 14th Avenue S., appeared and was represented by Steve Lundeen, Esq. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2432 14th Avenue S. is a single family dwelling in the Midtown Phillips neighborhood. The 1 story structure was built in 1979. The building sits on a 7,395 square foot lot.
2. The property has been determined to be in substandard condition. In 2009, the building was declared a public nuisance by Hennepin County District Court pursuant to Minn. Stat. § 617.83 and the owner was enjoined from entering the property for a period of one year beginning on April 1, 2010.
3. On September 25, 2010, a fire occurred at the property causing extensive damage and requiring the boarding of the open windows and doors.

4. The City Assessor's Office rates the overall building condition as Poor and Uninhabitable.

5. On December 10, 2010, a Director's Order to Demolish the property, located at 2432 14th Avenue S. was sent to Michael Buhl based upon the Inspections Division of the City of Minneapolis determination that the property at 2432 14th Avenue S. 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.*

6. On December 24, 2010, the owner, Michael Buhl, appealed the Director's Order to Demolish and a hearing was set for March 10, 2011.

7. The March 10, 2011, hearing was continued to allow Mr. Buhl to clean up the property so that a Code Compliance Inspection could be completed. The matter was continued until April 14, 2011.

8. On March 24, 2011, a Code Compliance Inspection was completed which showed the state of disrepair the property was in. The Code Compliance Inspection showed that there was major fire damage to the roof requiring a structural engineer to evaluate and design the needed repairs and that a structural engineer would also be needed to evaluate and design repairs for the fire damaged floors, walls, ceilings and joists systems. All duct work was damaged must be replaced, all the water gas, waste and vent piping had been damaged and needed to be replaced. The basement bathroom was installed without a permit and must be removed or brought to code. The basement floor needed to be opened for code compliance or removal and inspected. All damaged plumbing fixtures (sinks, laundry tubs, water heater and gas range) needed to be replaced and brought to code. The deck needed to be removed as it was built without permits and did not meet the proper setback and did not meet code.

9. 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 \$105,333.00 to \$149,986.00 based on the MEANS square footage estimate. The assessed value of the property in 2010, is \$136,000. The assessed value in 2009 was \$136,000.00 and the assessed value in 2008 was \$114,400.00. The after rehabilitation value of the property is estimated at \$120,000.00 per the CPED contracted appraiser.

b. The Midtown Phillips Neighborhood Improvement Association and property owners within 350 feet of 2432 14th Avenue S. were mailed a request for community impact statements. The Department of Inspections received six (6) in response. Four stated that the property has had a negative impact on the community and three stated that it should be demolished. The Midtown Phillips Neighborhood Improvement Association responded that the property has had a negative impact on the neighborhood and that the property should be demolished.

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.

d. The vacant housing rate in the Phillips neighborhood was around 5.9%. Of the approximately 709 houses on the city's Vacant Building Registration, 13 are in the Midtown Phillips neighborhood, a neighborhood of approximately 6,734 housing units.

10. The Department stated that the owner did not submit a rehabilitation plan for the property.

11. 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.

12. Mr. Buhl stated that he wishes to rehab the property and will be able to do so once there is a settlement with Travelers Insurance Company which insured the property prior to the fire. Mr. Buhl stated that Travelers is not making payment on the insurance claim because it feels that the fire was a case of arson. Mr. Buhl stated that he has friends in the construction industry that would help him rehabilitate the property for much less than the Department's estimate and that his plan would then be to rent the property or sell it.

CONCLUSIONS

1. The building located at 2432 14th Avenue S. 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 2432 14th Avenue S. 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 2432 14th Avenue S. 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 2432 14th Avenue S. 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 suffered a serious fire which has resulted in great damage to the structure of the building. The owner does not have a plan in place to rehabilitate the property and can not take action until a settlement with the insurance company occurs, such a settlement is purely speculative at this point since the Insurance Company believes that the fire was a case of arson and may not pay the claim. 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 2432 14th Avenue S., Minneapolis, Minnesota, be upheld.



Noah Schuchman
Chair,
Nuisance Condition Process Review Panel