

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2536 Polk Street N.E.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on September 10, 2009. Burt Osborne, chair, presided and other board members present included Bryan Tyner, Gerri Meyer and Patrick Todd. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division at the hearings. Eric Vogt of Vogt Homes, Inc., the owner of the building, was present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2536 Polk Street N.E. is a duplex in the Audubon Park Neighborhood. The two story structure was built in 1900. The building is 2,368 square feet and sits on a 4,692 square foot lot.
2. The property located at 2536 Polk Street N.E. has been determined to be substandard. A recent code compliance inspection revealed that the foundation is failing, the porch wood is rotted, the stucco is cracked and falling, there is a mold infestation, there is asbestos, copper is missing, there is illegal wiring, and an illegal unit. There are 39 open housing orders, including orders to repair/replace roof, repair/replace exterior walls, repair/replace interior walls, repair/replace floors, repair/replace ceilings, and repair/replace broken or rotted windows.

3. The Assessor rates the overall building condition as fair.

4. The Inspections Division of the City of Minneapolis determined that the property at 2536 Polk Street N.E. 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. Pursuant to M.C.O. § 249.40(1) the building located at 2536 Polk Street N.E. 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 \$53,900 to \$61,600 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$260,500. The 2009 assessed value of the property is \$150,000. The after rehab market value is estimated at \$200,000, based on the assessment of the CPED contracted appraiser.

b. The Audubon Neighborhood Association and property owners within 350 feet of 2536 Polk Street N.E. were mailed a request for a community impact statement. The Department of Inspections received fourteen (14) in return. All stated the property has had a negative impact on the neighborhood and should be demolished.

c. In 2000 the vacant housing rate in the Audubon Neighborhood was around 3.2%. Of the approximately 822 houses on the city's Vacant Building Registration, 16 are in the Audubon Neighborhood, a neighborhood of approximately 2,321 housing units.

6. The building located at 2536 Polk Street N.E. was added to the City's Vacant Building Registration on September 24, 2008, and condemned for being a boarded building on October 28, 2008. The building has remained vacant and boarded since the fall of 2008.

7. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Raze and Remove was mailed on June 22, 2009, to Federal National Mortgage Association; RE/MAX Results; Pearl G. Grace; MERS; Wilford & Geske and Aurora Loan Services. On July 7, 2009, Eric Vogt of Vogt Homes, Inc. filed an appeal of the order to

demolish. In the appeal Mr. Vogt stated that they made an offer to purchase the building in March of 2009, but delayed closing based on the requirement to obtain a code compliance inspection. After the code compliance orders were prepared, they proceeded with the closing which took place on June 23, 2009, a day after the order to demolish was issued. Mr. Vogt indicated on the appeal the plan for the property was to rehabilitate and bring it into compliance. The matter was then set for hearing on September 10, 2009.

8. At the September 10, 2009, hearing Eric Vogt stated that his company has completed rehabs on houses in the past and will be able to restore the property so that it would benefit the neighborhood. Mr. Vogt estimated that the cost of repairs would run approximately \$59,000. Mr. Vogt had not submitted a detailed rehabilitation plan to the Department of Inspections and did not have a timeframe for when the rehabilitation could be completed. Lee Gilberson, a real-estate agent who assisted Mr. Vogt in purchasing the property, asked that the owner be given time to rehabilitate the property as the order to demolish was sent out the day before the closing and after the code compliance inspection had been completed.

9. Mark Fox and Cindy Schulte of the Audubon Park Neighborhood Association spoke in opposition to the rehabilitation of the property and testified that the property has been a problem in the neighborhood and should be demolished.

CONCLUSIONS

1. The building located at 2536 Polk Street 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.

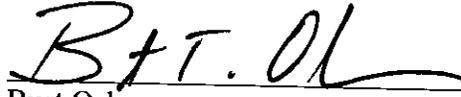
2. The building located at 2536 Polk Street N.E. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as the building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, 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. The building located at 2536 Polk Street N.E. 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 2536 Polk Street N.E. 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 has been vacant and boarded for approximately one year. The building has been the source of numerous problems for the neighborhood and has had a negative impact as attested to by the fourteen impact statements sent in by neighbors who all want the building demolished to prevent further negative impact.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2536 Polk Street N.E., Minneapolis, Minnesota, be upheld.

A handwritten signature in black ink that reads "Burt Osborne". The signature is written in a cursive style with a horizontal line underneath the text.

Burt Osborne
Chair,
Nuisance Condition Process Review Panel