CITY OF MINNEAPOLIS NUISANCE CONDITION PROCESS REVIEW PANEL

In the matter of the Appeal of Director's Order To Demolish the Property Located at 3121 Columbus Avenue S. Minneapolis, Minnesota.

FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION

This matter came on for hearing before the Nuisance Condition Process Review Panel on June 11, 2009, in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, acting chair, presided and other board members present included Bryan Tyner and Pete Pelletier. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division at the hearing. Barry Tanner, listing agent for owner Wells Fargo Bank, was present. Also present was Guy Otto, a neighboring property owner. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

- 1. 3121 Columbus Avenue S. is a single family home in the Central neighborhood. The 1.5 story structure was built in 1901. The building is 1,544 square feet and sits on a 4,941 square foot lot.
- 2. The property located at 3121 Columbus Avenue S. has been determined to be substandard due to a damaged roof, chimney and masonry damage, buckling and crumbling foundation, deteriorating roof overhang, damaged and deteriorating framing and ceilings and damaged floor joists. There are thirty-three (33) open housing orders, including orders to repair

driveway surfaces, repair interior walls, floors, counters, repair/replace all windows, storms, screens framing and repair/replace bathroom floor.

- 3. The Assessor rates the overall building condition as fair but uninhabitable.
- 4. The Inspections Division of the City of Minneapolis determined that the property at 3121 Columbus 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.

- 5. Pursuant to M.C.O. § 249.40(1) the building located at 3121 Columbus Avenue S. 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 \$116,372 to \$150,368 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$79,900. The 2009 assessed value of the property is \$87,000.
 - b. The Central Area Neighborhood Development Organization and property owners within 350 feet of 3121 Columbus Avenue S. were mailed a request for a community impact statement. The Department of Inspections received one (1) in return. The response stated that the property has had a negative effect and "cannot stay as is."
 - c. In 2000 the vacant housing rate in the Central Neighborhood was around 7.5%. Of the approximately 839 houses on the city's Vacant Building Registration, 59 are in the Central Neighborhood, a neighborhood of approximately 2,522 housing units.
- 6. The building located at 3121 Columbus Avenue S. was added to the City's Vacant Building Registration on December 11, 2006 and was condemned for being a boarded building on September 7, 2007 and has remained vacant and boarded since that time.
- 7. Sean Lofton owned the property located at 3121 Columbus Avenue S. and lost the property in foreclosure. In early 2009, Wells Fargo Bank gained title to the property after the foreclosure sale. Barry Tanner, the listing agent for the bank, ordered a Code Compliance Inspection which was conducted on February 4, 2009.

- 8. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Raze and Remove was mailed on March 17, 2009, to Reiter & Schiller, MERS, Inc., Wells Fargo Bank, N.A., Sean Lofton, Christine Sickmann and Barry Tanner of Edina Realty. On March 30, 2009, Barry Tanner filed an appeal on behalf of the owner stating "Code compliance completed. Property is under contract with buyer who is ready and willing to rehabilitate property." The matter was then set for hearing on June 11, 2009.
- 9. No permits have been pulled to complete repairs at the property nor has any repair work commenced at the property. The owner's plan is to sell the property, as is, to someone who would then complete the necessary repairs at the property.
- 10. Guy Otto, a neighbor who also owns a duplex nearby 3121 Columbus Avenue S., stated that the property has negatively affected neighborhood and his ability to rent his duplex which now sits empty. Mr. Otto stated that there have been prostitution issues at the property and he has paid neighborhood kids to cut the grass at the property to try and maintain the exterior the aesthetics of the neighborhood.

CONCLUSIONS

- 1. The building located at 3121 Columbus 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 3121 Columbus Avenue S. 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 3121 Columbus Avenue S. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(3) as 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. The building located at 3121 Columbus Avenue S. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence 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 recommendation to raze the building located at 3121 Columbus Avenue S. is appropriate. The building 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 razing the building is appropriate. The building has been vacant and boarded for over three years. This property has been neglected to the point that it has had a negative impact on the community and will continue to have a negative impact if it is not removed. Additionally, the owner has no current plans to rehabilitate the property and only wishes to sell to a purchaser who will be responsible for the rehabilitation of the property. The building is not needed for neighborhood housing at this time.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3121 Columbus Avenue S. Minneapolis, Minnesota, be upheld.

Noah Schuchman

Acting Chair,

Nuisance Condition Process Review Panel