

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2733 Penn Avenue N.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on August 14, 2008, in City Council Chambers located in Minneapolis City Hall. Grant Wilson, acting chair, presided and other board members present included Patrick Todd, Jim Dahl and Elfric Porte (Elfric Porte recused himself from the discussion and vote because of a potential conflict). Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. The owner David Bichanga appeared for the hearing. Also present from the neighborhood were Dorothy Titus and Anne McCandless. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2733 Penn Avenue N. is a five-unit apartment building in the Jordan neighborhood. The two story structure was built in 1900. The building is 7,193 square feet, with 2,604 being the first floor, 2,437 being the second floor and 2,152 being the basement. The building sits on a 10,216 square-foot lot.

2. The property located at 2733 Penn Avenue N. has been vacant and boarded since at least January of 2005. The Department of Inspections and/or the Minneapolis Police Department have had to board or re-board the building or garage ten times since January of 2005. The property has also been a constant source of nuisance orders during that time.

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

4. The Inspections Division of the City of Minneapolis determined that the property at 2733 Penn Avenue N. 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; or

(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 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 \$259,600 to \$367,500 based on the MEANS square footage estimate. The assessed value of the property is \$150,000 (2008). In 2007 the assessed value was \$200,000.

b. The after-rehab value of the property is \$200,000 based upon the CPED staff appraiser.

c. The Preservation and Design Team staff conducted a historic review of the property finding that the property does not have historic integrity and the demolition will have little or no adverse impact on historical neighborhood context. The Team has signed off on the wrecking permits.

d. The Jordan Area Community Council and the owners within 350 feet of 2733 Penn Avenue N. were mailed a request for a community impact statement. The Department of Inspections received eight in return. Six of the eight asked for the property to be demolished, citing its terrible condition, use by prostitutes, johns and drug users and being out of place in the neighborhood. One letter expressed frustration over the current owner's incapability and unwillingness to demonstrate any sort of commitment to the neighborhood, asking that the City force the "sale/rehab/teardown" of the property. One letter said the building has a negative impact on the neighborhood and does not fit the housing needs, but that demolition or rehab should be up to the property owner.

d. The vacant housing rate in the Jordan neighborhood is around 8%. Of the approximately 944 houses on the city's Vacant Building Registration, 116 are in

the Jordan neighborhood alone, a neighborhood of approximately 2,449 housing units.

6. The property located at 2733 Penn Avenue N. was placed on the City's Vacant Building Registration on January 6, 2005, and was condemned for being a boarded building on April 26, 2005.

7. On December 28, 2005, the prior owner Rick Myre scheduled a code compliance inspection for the property on January 18, 2006. The orders were mailed to Mr. Myre on January 26, 2006.

8. On March 27, 2006, Mr. Timothy Jackson purchased the property located at 2733 Penn Avenue N. with the mortgagee as Mortgage Electronic Registration Systems, Inc. with the Mortgage being assigned to U.S. Bank National Association on November 16, 2006.

9. On May 9, 2006, Timothy Jackson paid the \$2,000 deposit for the code compliance inspection. Permits were never pulled, and the deposit was forfeited on February 7, 2007.

10. The property at 2733 Penn Avenue N. went into foreclosure, and a Sheriff's sale of the property was held on February 7, 2007, with U.S. Bank National Association purchasing the property with a high bid of \$378,000.

11. The property located at 2733 Penn Avenue N. remained vacant and boarded after purchase at the Sheriff's sale and after the redemption period expired in the fall of 2007.

12. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on June 17, 2008, to U.S. Bank National Association. On June 23, 2008, David Bichanga, an agent for the owner, filed an appeal stating that the owner was

trying its best to sell the property and indicating that the interior of the property was in good condition and could be rehabbed.

13. Mr. Bichanga stated that the property has been on the market for a year and that the owner would like more time to sell the property. Mr. Bichanga also admitted that there have been problems with people breaking into the property, but claimed that the interior was still in good condition and submitted a \$150,000 estimate to rehab the property.

14. Ms. Dorothy Titus of 2715 Penn Ave. N. testified that the property located at 2733 Penn Avenue N. has been nothing but trouble for the seven years she has been in her house and that she has been forced to call the police numerous times regarding the property.

15. Ms. Anne McCandless of 2814 Irving Ave. N., a former Sergeant with the Minneapolis Police Department, testified that the property has become a magnet for criminal activity in the neighborhood and that, even if rehabbed, the property would still attract a criminal element because it has been a magnet for this type of activity for several years.

CONCLUSIONS

1. The building located at 2733 Penn Avenue N. 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 2733 Penn Avenue N. 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 2733 Penn Avenue N. meets the definition of a 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 2733 Penn Avenue N. 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.

5. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, the Director of Inspection's recommendation to raze the building located at 2733 Penn Avenue N. 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 a period of at least three and one-half years and has become a magnet for a criminal element that has negatively affected the neighborhood as attested to by the eight community impact statements submitted by neighbors requesting that the building be torn down.

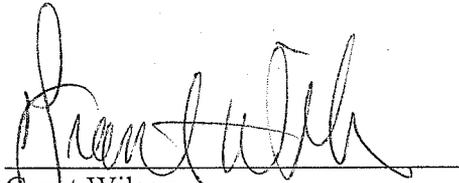
6. The \$150,000 estimate for rehab submitted by Mr. Bichanga is inadequate as it does not take into account the needed rehabilitation of the kitchens and bathrooms of a five unit building of this size.

7. Mr. Bichanga's request that the owner be given more time to attempt to sell the property is not appropriate under the circumstances. The vacant and boarded building will

continue to have a negative impact on the community while a potential owner willing to rehab the property is sought. The owner has been in control of the property for more than a year and has not taken appropriate action to rid the neighborhood of this nuisance condition.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2733 Penn Avenue N., Minneapolis, Minnesota, be upheld.

A handwritten signature in black ink, appearing to read "Grant Wilson", written over a horizontal line.

Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel