

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 1111 28th Avenue N.E.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on August 6, 2009, and September 10, 2009. At both hearings 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. My Truong of J & M Homes II, LLC, owner of the property, was present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 1111 28th Avenue N.E. is a duplex in the Audubon Park neighborhood. The 2 story structure was built in 1908. The building is 1,520 square feet and sits on a 3,384 square foot lot
2. The property located at 1111 28th Avenue N.E. has been determined to be substandard. A recent inspection revealed that the foundation is failing. A structural engineer's evaluation would be required for any repairs to the foundations. Additionally, there is rotting siding, hazardous electric/wiring, an illegal retaining wall, and the property needs a new furnace. There are seven (7) open housing orders. In 2008, the City of Minneapolis levied \$13,850.00 in special assessments against the property.

3. The Assessor rates the overall building condition as average plus.

4. The Inspections Division of the City of Minneapolis determined that the property at 1111 28th Avenue 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 1111 28th Avenue 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 \$50,483.00 to \$76,848.00 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$186,500. The 2009 assessed value of the property is \$177,500.

b. The after rehab market value determined by the CPED contracted appraiser is \$165,000.00.

c. The Audubon Neighborhood Association and property owners within 350 feet of 1111 28th Avenue N.E. were mailed a request for a community impact statement. The Department of Inspections received two (2) in return. One stated that the property was an eyesore and did not meet the neighborhood housing needs and should be demolished. One stated that the property does meet the neighborhood housing needs and should be repaired/renovated.

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

6. The building located at 1111 28th Avenue N.E. was added to the City's Vacant Building Registration on June 18, 2008. The building has remained vacant since that time.

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 Homecomings Financial LLC; U.S. Bank National Association; Henry A. Mezquita; Yamil Rivera Aguirre and Shapiro, Nordmeyer & Zielke. On July 6, 2009, J and M Homes II, LLC filed an appeal stating "some cracks in the

foundation, interior of home is in decent repair needs little work inside.” The matter was then set for hearing on August 6, 2009.

8. At the August 6, 2009, hearing My Truong of J & M Homes II, LLC., stated that he had purchased the property out of foreclosure and two days after closing received the order to demolish. Mr. Truong requested additional time to put together a plan to rehabilitate the property including an engineer’s report regarding the suspect foundation. The matter was then continued to September 10, 2009.

9. At the September 10, 2009, hearing Mr. Truong stated that he had submitted an engineer’s report to the Department of Inspections and that it was accepted by the City’s Building Official. However, Mr. Truong did not submit a detailed rehabilitation plan to staff and an agreement on restoration had not been completed.

CONCLUSIONS

1. The building located at 1111 28th Avenue 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.

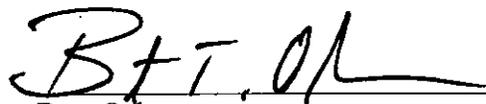
2. The building located at 1111 28th Avenue N.E. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as the building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code.

3. The building located at 1111 28th Avenue 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 1111 28th Avenue 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 for over a year. The foundation is in failing condition and will need extensive work to make the building structurally sound and the owner does yet have a plan in place to rehabilitate the property. The property will continue to be a nuisance to the neighborhood as it sits and waits to be repaired.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 1111 28th Avenue N.E., Minneapolis, Minnesota, be upheld.

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

Burt Osborne
Chair,
Nuisance Condition Process Review Panel