

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

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**In the matter of the Appeal of  
Director's Order To  
Demolish the Property  
Located at 4237 Dupont Avenue N.  
Minneapolis, Minnesota.**

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

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This matter came on for hearing before the Nuisance Condition Process Review Panel on August 6, 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 hearing. 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. 4237 Dupont Avenue N. is a duplex in the Webber-Camden Neighborhood. The 2 story structure was built in 1894. The building is 2,302 square feet and sits on a 6,400 square foot lot.
2. The property located at 4237 Dupont Avenue N. has been determined to be substandard. The property is in disrepair and a recent inspection has revealed foundational issues, floors in disrepair, failing roof, and mold infestation. There are 36 open housing orders, including orders to repair/replace roof, repair/replace exterior walls, repair roof overhang, repair glass, repair floors, repair walls, repair ceilings, and repair interior surfaces throughout. In 2008, the City of Minneapolis levied \$1,683.83 in special assessments against the property.
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 4237 Dupont 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.*

*(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 4237 Dupont Avenue N. 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 \$110,688.00 to \$157,254.00 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$171,000. The 2009 assessed value of the property is \$60,000.
- b. The after rehab market value as determined by the CPED contracted appraiser is \$180,000.
- c. The Webber-Camden Neighborhood Association and property owners within 350 feet of 4237 Dupont Avenue N. were mailed a request for a community impact statement. The Department of Inspections received twenty five (25) in return. All responses stated that the property has had a negative impact on the community and should be demolished, citing long-term lack of maintenance, negative impact on property values, and history of attracting crime, prostitution and drug activity.
- d. In 2000 the vacant housing rate in the Webber-Camden Neighborhood was around 4.5%. Of the approximately 822 houses on the city's Vacant Building Registration, 24 are in the Webber-Camden Neighborhood, a neighborhood of approximately 2,232 housing units.
- e. The Historic Preservation and Design staff has reviewed the property and determined that the property does not constitute a historic resource and have signed off on the wrecking permits.

6. The building located at 4237 Dupont Avenue N. was condemned for being a boarded building on October 30, 2008, and added to the City's Vacant Building Registration on November 4, 2008. The building has remained vacant and boarded 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 Greenpoint Mortgage Corp.; J&M Homes LLC.; My Truong; Jeff Byrd and Maleta D. North.. On July 6, 2009, J&M Homes II, LLC. filed an appeal stating "Home is in fair condition, floors are fairly level and need windows, furnace and some plumbing work. Have report by structural engineer." The matter was then set for hearing on July 9, 2009. It was continued until August 6, 2009.

8. At the August 6, 2009, hearing My Truong of J&M Homes II, LLC stated that the house was bought as a condemned property with plans to rehab. Mr. Truong indicated that they planned for a full rehabilitation, including changing the boiler system to a forced air system and fixing the foundation problems. Mr. Truong also noted that there is already a vacant lot next door. Mr. Truong did not present a completed rehabilitation plan with cost estimates.

9. Tim Plodeshack, a neighbor of the property, testified that the neighborhood did not have a need for another duplex as there are already six (6) in the neighborhood. Mr. Plodeshack also testified that the building has been a continuous sore spot and eyesore in the community.

### **CONCLUSIONS**

1. The building located at 4237 Dupont 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 4237 Dupont 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 4237 Dupont Avenue N. 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 4237 Dupont Avenue N. 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.

5. The building located at 4237 Dupont Avenue N. 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 nearly a year. This property is clearly a nuisance to the neighborhood as shown by the twenty-five (25) neighborhood impact statements that were submitted recommending demolition.