

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2005 Hillside Avenue N.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on September 11, 2008, in City Council Chambers located in Minneapolis City Hall. Grant Wilson, acting chair, presided and other board members present included Denise Lingwall, Jim Dahl and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan and Wayne Murphy represented the Inspections Division. Kristine Spiegelberg, of Shapiro, Nordmeyer & Zielke, attorney for the owner EMC Mortgage Corp. appeared. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2005 Hillside Avenue N. is a single family home in the Jordan neighborhood. The two story structure was built in 1900. The building is 1424 square feet, with 856 being the first floor and 568 being the second floor and 428 being the basement. The building sits on a 5,500 square-foot lot.

2. The property located at 2005 Hillside Avenue N. is in extreme disrepair. The building was condemned for being a boarded building on September 12, 2007. There are thirty-seven (37) open housing orders on the property and ongoing nuisance orders such as cut grass and remove rubbish. There is serious deterioration of the foundation, the Code Compliance Inspection conducted in April 2008 indicated that a structural engineer's evaluation is required to

evaluate the building foundation, columns, beams and joists.

3. The Assessor rates the overall building condition as average-minus.

4. The Inspections Division of the City of Minneapolis determined that the property at 2005 Hillside 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 \$98,030 to \$157,374 based on the MEANS square footage estimate. The assessed value of the property is \$83,800 (2008). In 2007 the assessed value was \$136,500.

b. The after-rehab value of the property is \$113,900 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 property owners within 350 feet of 2005 Hillside Avenue N. were mailed a request for a community impact statement. The Department of Inspections received two in return. Both said the house has a negative impact on the neighborhood, does not fit the housing needs of the neighborhood and should be demolished.

d. The vacant housing rate in the Jordan neighborhood is around 7%, according to the 2000 census. The foreclosure crisis has made that number obsolete. Of the approximately 931 on the city's Vacant Building Registration, 115 are in the Jordan neighborhood, a neighborhood of approximately 2,666 housing units.

6. Ka Lee purchased the property located at 2005 Hillside Avenue N. on June 21, 2006. The property went into foreclosure in 2007 and a sheriff's sale was held on September 4, 2007 with EMC Mortgage Corporation purchasing the property with a high bid of \$110,000. The redemption period expired on March 4, 2008.

7. The property located at 2005 Hillside Avenue N. was condemned for being a boarded building on September 12, 2007, and was placed on the City's Vacant Building Registration on September 13, 2007.

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 July 25, 2008, to EMC Mortgage Corporation; Dick Stanton of MN REO; MERS, Inc.; Ka Lee; Middleberg, Riddle & Gianna and Shapiro, Nordmeyer & Zielke. Kristine Spiegelberg, of Shapiro, Nordmeyer & Zielke, filed an appeal on behalf of EMC Mortgage Corporation indicating that the Mortgage Company "has fiercely sought to sell this Property to a third party willing to rehabilitate the dwelling so that it is code compliant. To date, no such buyer has been found. This is so despite the fact that the Property is currently listed for sale for an amount less than \$15,000".

9. The owner has no plans to rehabilitate the building itself but only wishes to sell the property to a buyer who is willing to rehabilitate the property.

CONCLUSIONS

1. The building located at 2005 Hillside 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 2005 Hillside 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 2005 Hillside 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 2005 Hillside 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 2005 Hillside 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 one year period. The current owner does not plan on trying to fix the property but only wishes to sell the property to someone interested in completing the rehabilitation of the house. 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 razed as attested to by the community impact statements submitted by neighbors requesting that the building be torn down.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2005 Hillside Avenue N. Minneapolis, Minnesota, be upheld.

Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel