

**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 5733-5735 Sander Drive  
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 at Rental Dwelling License Board of Appeals on September 13, 2007 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided over the hearing. Other board members present included Patrick Todd, Dave Dewall and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. No appearance was made by AMC Mortgage Services, the owner of the property, or by any representative of the owner. Based upon the Board's consideration of the entire record, the Board makes the following:

**FINDINGS OF FACT**

1. AMC Mortgage Services is the owner of the property located at 5733-5735 Sander Drive, Minneapolis, Minnesota. 5733-5735 Sander Drive is a side-by-side two story duplex that was built in 1975. Each unit has four rooms, two bedrooms and one full bath. The building is 1728 square feet and sits on a 5040 square foot lot. The Assessor rates the building as being in fair condition.

2. The property has been condemned for being boarded since September 26, 2006 and the water has been shut off since March of 2005.

3. The Inspections Division of the City of Minneapolis determined that the property at 5733-5735 Sander Drive meets 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; or*

(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.*

(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.*

4. 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 \$155,500 to \$181,500 based on the MEANS square footage estimate. The assessed value of the property is

\$128,000. The estimated market value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$164,200. The Assessor rates the condition of the building as fair. The property has no architectural or historic value/designation.

b. The Wenonah Neighborhood Association and the owners of properties within 350 feet of 5733-5735 Sander Avenue N. were mailed a request for a community impact statement. The Department of Inspections received two in return. Both of the impact statements recommended demolition and commented that the property has had a negative impact on the neighborhood.

c. In 2000, the Wenonah neighborhood had 1928 housing units; 1905 were occupied and 23 were vacant. There are 1297 owner-occupied housing units and 608 renter-occupied housing units. The vacancy rate in 2000 was .15% for home owners and 1.14% for renters.

5. Deutsche Bank purchased the property located at 5733-5735 Sander Drive on December 13, 2006 at Sheriff's foreclosure sale with the redemption period expiring on June 13, 2007. AMC Mortgage is now the owner of the property.

6. On November 14, 2006 a code compliance inspection was applied for by Bettze McNeil. The code compliance inspection was completed on November 28, 2007 and the orders were sent to Bettze McNeil on December 14, 2006.

7. On May 16, 2007 copies of the code compliance orders were faxed to Barry Tanner, a real estate agent for AMC Mortgage.

8. Neither the owner nor their agent, have applied for any permits to correct the numerous orders which resulted from the code compliance inspection. Those orders include but

are not limited to: Replace roof; repair/replace all broken and rotted windows; repair all walls/floors/ceilings/ install heating system to code for duplex; replace all water and gas pipe; repair water heater; install screen and storm windows throughout and abate all mold problems.

9. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on July 23,2007 to Deutsche Bank National Trust Company; Barry Tanner, Edina Realty and Bettze McNiel.

10. On August 8, 2007 the owner AMC Mortgage Services filed an appeal of the Director's order to demolish pursuant to M.C.O. § 249.45(c) and a hearing was scheduled for September 13, 2007.

11. On September 13, 2007 neither the owner nor the owner's agent appeared at the appeals hearing. Appellant's written appeal states that AMC has secured the property, removed debris, is doing bi-weekly yard maintenance and has the home on the market to be sold and rehabilitated.

12. Neither the owner nor their agents have pulled permits to fix any of the orders which resulted from the code compliance inspection.

## **CONCLUSIONS**

1. The building located at 5733-5735 Sander Drive 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 5733-5735 Sander Drive 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 5733-5735 Sander Drive 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.

4. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's order to demolish the building located at 5733-5735 Sander Drive. 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 demolition of the building is appropriate. The building has been vacant and boarded for over a year. The water has been turned off since for over two years. While a code compliance inspection has been completed the owner has no plans to rehabilitate the property but wishes only to sell the property to a buyer who will assume the code compliance orders. This course of action would allow the building to remain as a vacant/boarded building and would continue to have a negative impact on the neighborhood.

## **RECOMMENDATION**

That the Director of Inspections' Order to Raze the building located at 5733-5735 Sander Drive, Minneapolis, Minnesota be upheld.

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Burt Osborne  
Chair,  
Nuisance Condition Process Review Panel