

**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 2720-22 Penn Ave. N.  
in 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 July 12, 2007 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided. Other board members present included Patrick Todd, and Brad Schmoll. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. Kristin Spiegelberg of Shapiro, Nordmeyer & Zielke appeared on behalf of appellants U.S. Bank National Association. Based upon the Board's consideration of the entire record, the Board makes the following:

**FINDINGS OF FACT**

1. GMAC owns the property located at 2720-22 Penn Avenue N., Minneapolis, Minnesota. The structure is a side-by-side duplex in the Jordan neighborhood. The two-story house was built in 1978. The wood-frame house is stucco and brick. Each unit has four rooms, including two bedrooms and a full bathroom. The house sits on a 5,365 square foot lot. There is a two-stall garage on the property. The building was condemned on September 1, 2006 for being a boarded building.

2. The Inspections Division of the City of Minneapolis determined that the property at 2720-22 Penn Ave. 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; 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.*

3. 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 \$197,000 to \$215,000, based on the MEANS square footage estimate. The estimated value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$170,200. The assessed value of the property is

\$213,000 (2005), \$204,500 (2006) and \$108,900 (2007). The Assessor rates the condition of the building as fair but uninhabitable. The property has no architectural or historic value/designation.

b. There is an outstanding water bill of \$1,307.30 and \$2,094 in special assessments from 2006 on the property.

c. The Jordan Area Community Council and the owners of properties within 350 feet of 2720-22 Penn Ave. N. were mailed a request for a community impact statement. The Inspections Division received six impact statements in return. All six of the impact statements recommended demolition and commented that the property has had a negative impact on the neighborhood. The Jordan Area Community Council recommended demolition and indicated that the property has had a negative impact on the neighborhood.

d. The vacant housing rate in the Jordan neighborhood is around 10%. Of the approximately 360 houses on the city's Vacant Building Registration, 60 are in the Jordan neighborhood alone, a neighborhood of approximately 2,600 housing units. This property sits on the 2700-2800 double block of Penn Avenue. The double block has approximately 12 occupied rental properties, 7 occupied homesteaded properties, 6 properties in foreclosure and 8 condemned houses.

4. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed to 12 parties identified as being interested parties including US Bank National Association and Shapiro Nordmeyer & Zielke Law Firm in mid October 2006.

5. On October 31, 2006 The Law Firm of Shapiro Nordmeyer & Zielke, on behalf of U.S. Bank National Association, filed an appeal of the Director's order to demolish pursuant to

M.C.O. § 249.45(c) and a hearing was scheduled for January 11, 2007. On January 11, 2007 Kristine Spiegelberg appeared at the appeals hearing and requested a postponement of a decision on the matter as the property was in the redemption period and appellant would not gain ownership until after the redemption period ended on February 22, 2007. Pursuant to this request the appeals hearing was continued to July 12, 2007.

6. Brian Keith White and Clarissa Nolen purchased the home for \$260,000 on June 10, 2005 and entered into a mortgage with Mortgage Electronic Registration Services Inc. MERS assigned its interest to U.S. Bank. Mr. White and Ms. Nolen defaulted on their mortgage on April 18, 2006 and U.S. Bank started foreclosure proceedings. The sheriff's sale was held on August 22, 2006 and the property was sold to U.S. Bank on a bid of \$261,330.37. On February 22, 2007 the redemption period expired and U.S. Bank gained title to the property.

7. On July 12, 2007 Kristine Spiegelberg appeared and stated that the property was now owned by GMAC and was being marketed for sale. Ms. Spiegelberg requested a two week continuance since GMAC had only recently acquired the property.

8. Wayne Murphy of the Department of Inspections stated that in the six months since the matter had been continued in January no code compliance inspection had been completed, no permits had been acquired and no one had filed any documents with Hennepin County to show a transfer of ownership.

## **CONCLUSIONS**

1. The building located at 2720-22 Penn Ave. 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 2720-22 Penn Ave. 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 2720-22 Penn Ave. 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.

4. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's order to demolish the building located at 2720-22 Penn Ave. 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 demolition of the building is appropriate. The building has been condemned, vacant and boarded for almost one year, no plans are in place to rehabilitate the property and a Code Compliance Inspection which would identify all the needed repairs has not been completed or even scheduled. The neighbors and are community council feel that the property has had a negative impact on the neighborhood. Without a plan in place to rehabilitate this property the property will continue to be vacant and boarded and continue to have a negative impact on the neighborhood.

## **RECOMMENDATION**

That the Director of Inspections' Order to Raze the building located at 2720-22 Penn Ave. N., Minneapolis, Minnesota be upheld.

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Burt Osborne  
Chair,  
Nuisance Condition Process Review Panel