

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2223 16th Ave. S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel at Rental Dwelling License Board of Appeals on May 10, 2007 and August 9, 2007 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided over the hearing on May 10, 2007. Other board members present included Patrick Todd, Dave Dewall and Elfric Porte. On August 9, 2007 Patrick Todd presided and other board members included Dave Dewall and Elfric Porte and Grant Wilson. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. Kristine Spiegelberg of the Law Firm of Shapiro, Nordmeyer & Zielke appeared on behalf of the owner, HSBC Bank USA, at the May 10, 2007 and the August 9, 2007 hearings. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. HSBC Bank USA is the owner of the property located at 2223 16th Ave. South, Minneapolis, Minnesota. 2223 16th Ave. S. is a single family dwelling in the Ventura Village neighborhood. The 1.7 story home was built in 1900 and has three bedrooms and one bathroom. The building is 1,239 square feet and sits on a 5,289 square foot lot with a 1 stall garage. The property was posted with a letter of intent to condemn on May 23, 2006 for lack of maintenance

and then was condemned on November 7, 2006 for being boarded. The Assessor rates the building as being in average condition but uninhabitable..

2. The Inspections Division of the City of Minneapolis determined that the property at 2223 16th Ave. S. 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.

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 \$130,000 to \$142,400 based on the MEANS square footage estimate. The assessed value of the property is \$122,300 (2006) and \$110,000 (2007). The estimated market value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$99,120. The Assessor rates the condition of the building as average but uninhabitable. The property has no architectural or historic value/designation.

b. There are special assessments pending for 2007 totaling \$2,902. Special assessments for 2006 total \$1,310. The real estate taxes for 2006 are delinquent in the amount of \$1,416.57 and the 2007 real estate taxes are due with a total of \$2,776.07.

c. The Ventura Village Area Community Council and the owners of properties within 350 feet of 2223 16th Ave S. were mailed a request for a community impact statement. The Department of Inspections received none in return.

d. The vacant housing rate in the Ventura Village neighborhood is around 4.5%. Of the approximately 487 houses on the city's Vacant Building Registration, 8 are in the Ventura Village neighborhood, a neighborhood of approximately 2, 440 housing units.

4. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on April 5, 2007 to Twila Gross, the owner of record according to Minneapolis Property Information, HSBC Bank, USA, MERS and Shapiro Nordmeyer & Zielke L.L.P.

5. On April 20, 2007 the Law Firm of Shapiro Nordmeyer & Zielke, on behalf of HSBC Bank, USA filed an appeal of the Director's order to demolish pursuant to M.C.O. § 249.45(c) and a hearing was scheduled for May 10, 2007.

6. On May 7, 2007 Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke sent a letter to the Department of Inspections indicating that the redemption period on this property was reduced to 5 weeks by court order on May 3, 2007.

7. On May 10, 2007 Kristine Spiegelberg representing HSBC Bank, USA was present and indicated that the redemption period had just been reduced to five weeks and requested a continuance of the hearing so the bank could gain ownership and take the steps necessary to rehabilitate the building, including applying for a code compliance inspection.

8. The matter was continued to August 9, 2007 for the Bank to take ownership and review the property and take the proper steps to deal with the nuisance conditions at the property.

9. On August 9, 2007 Kristine Spiegleberg appeared and indicated that bank had gained ownership of the property but did not have a code compliance inspection completed. Ms. Spiegleberg indicated that the bank had received bids to replace the windows at the property and had kept the yard clean and mowed. Ms. Spiegelberg requested a thirty day continuance to complete the code compliance inspection.

CONCLUSIONS

1. The building located at 2223 16th Ave. S. 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 2223 16th Ave. S. 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 2223 16th Ave. S. 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 2223 16th Ave. S 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 approximately 1 year and has been rated as uninhabitable by the assessor. HSBC Bank, USA has had ownership of the property for two months and has not taken the steps necessary to alleviate the nuisance conditions that exist at the property. The Bank has not completed a code compliance inspection, which would provide a complete understanding of what is needed to rehabilitate the property, and therefore is in no position to enter into a restoration agreement to rehabilitate the property.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2223 16th Ave. S., Minneapolis, Minnesota be upheld.

Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel