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CITY OF MINNEAPOLIS
NUISANCE CONDITION PROCESS REVIEW PANEL

In the matter of the Appeal of Director's Order To Demolish the Property Located at 400 31st Avenue N. Minneapolis, Minnesota.

FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION

This matter came on for hearing before the Nuisance Condition Process Review Panel on July 10, 2008 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided and other board members present included Patrick Todd, Bryan Tyner and Geri Meyer. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division. The Laura Hage, Attorney at Law, was present and represented the owner United Homes, Inc. Phil and Noel Kleindl of United Homes, Inc. were present with structural engineer Bernie Stroh. Also present were Jeff Skrenes from the Hawthorne Neighborhood Council and Pam Patrick, a neighborhood resident. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 400 31st Avenue N. is a single family dwelling in the Hawthorne neighborhood. The building was built in 1914 and has two bedrooms and two bathrooms. The building is 1,336 square feet and sits on a 4,756 square foot lot.

2. The property located at 400 31st Avenue N. sustained a fire on July 28, 2007, that severely damaged the building. The property was condemned for being a boarded building on October 3, 2007, and added to the City's Vacant Building Registration on October 4, 2008.

3. The Assessor rates the overall building condition as poor and uninhabitable.

4. The Inspections Division of the City of Minneapolis determined that the property at 400 31st 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.

(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 $127,000 to $147,000, based on the MEANS square footage estimate. The assessed value of the property is

$64,200 (2008). In 2007 the assessed value was $123,500. The decreased value was the result of the damage from the fire.

b. 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.

c. The Hawthorne Neighborhood and the owners within 350 feet of 400 31st Avenue N. were mailed a request for a community impact statement. The Department of Inspections received five in return. Four statements referred to the negative impact of the house, stated that it does not fit the housing needs of the neighborhood and asked that it be demolished. One statement referred to the fire at the property and said it was in need of demolition. One statement referred to the property as a "piece of junk not worth saving." One statement referred to drug dealing and shootings related to the property.

d. The vacant housing rate in the Hawthorne neighborhood was around 3% according to the 2000 census; the foreclosure crisis in North Minneapolis has probably made that number higher. Of the approximately 924 houses on the city's Vacant Building Registration, 132 are in the Hawthorne neighborhood alone, a neighborhood of approximately 1,853 housing units.

6. Yulanda R. Mitchell purchased the property located at 400 31st Avenue N. on October 13, 2006, for $153,000. Ms. Mitchell defaulted on her mortgage and a Sheriff's Foreclosure sale was set for October 1, 2007. At the Sheriff's sale Mortgage Electronic

Registration Systems, Inc. purchased the property for $21,250. United Homes, Inc. purchased the property in the spring of 2008.

7. The property at 400 31st Avenue N. was subject to a fire on July 28, 2007, and was boarded as a result of the fire. The boards were not removed and the building was condemned for being a boarded building on October 3, 2007, and placed on the Vacant Building Registration on October 4, 2007.

8. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on May 6, 2008, to Mortgage Electronic Registration Systems, Inc.; Saxon Mortgage Services; Kurt Christensen of Coldwell Banker Burnet and Reiter & Schiller P.A., the law firm that handled the foreclosure. On May 27, 2008, Laura Hage, the attorney representing United Homes, Inc., filed an appeal of the Director's Order to Demolish stating that United Homes had recently purchased the property and wished to rehab the property and begin renting it. United Homes' appeal also included an engineer's report from Bernie Stroh, a licensed engineer stating that the building was in sound structural condition.

9. At the July 10, 2008, hearing Mr. Noel Kliendl along with Counsel Laura Hage appeared and requested that United Homes be given an opportunity to rehab the property. Mr. Kliendl submitted an estimate on repairs to the home in the amount of $30,000 including lighting for the entire house at $1,000.

10. Photos of the interior of the property show a house in total disarray with extensive damage, which would set the price of rehabilitation much higher than the $30,000 estimate submitted by United Homes and more along the lines of the estimate of $127,000 to $147,000 submitted by the Department of Inspections.

CONCLUSIONS

1. The building located at 400 31st 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 400 31st Avenue N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as 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, and 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 400 31st 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.

4. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition,* the Director of Inspection's recommendation to raze the building located at 400 31st 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 sustained a fire nearly one year ago and the

property has remained vacant and boarded building and becoming a nuisance in the neighborhood as attested to by the neighborhood impact statements and the testimony of the neighborhood residents.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 400 31st Avenue N., Minneapolis, Minnesota be upheld.

Burt Osborne
Chair,
Nuisance Condition Process Review Panel