

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 4137 27th Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on September 13, 2007 and December 13, 2007 in City Council Chambers located in Minneapolis City Hall. At the September 13, 2007 hearing Burt Osborne presided and other board members present included Patrick Todd, Dave Dewall and Elfric Porte. At the December 13, 2007 hearing Grant Wilson presided and other board members present included Jim Dahl, Geri Meyer and Pete Pelletier. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. Dick Stanton of MN REO, was present representing the owner HSBC Bank USA as trustee for ACE Securities Corp Home Equity Loan Trust. Also present was Erick Heard of Erick Heard & Associates, a potential purchaser. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 4137 27th Avenue S. is a 1 ½ story wood-framed single family house built in 1916. The house has two bedrooms and one full bathroom. The building sits on a lot measuring 40 x 126 feet and has a two car garage.

2. The property located at 4137 27th Avenue S. was posted with a letter of intent to condemn on June 6, 2007 for being a boarded building and was condemned on August 23, 2007 for being a boarded building.

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

4. The Inspections Division of the City of Minneapolis determined that the property at 4137 27th Avenue S. 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.

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 \$116,000 to \$127,900 based on the MEANS square footage estimate. The estimated market value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$171,400. The taxable value of the property is \$185,700. The Assessor rates the property as average. The property was reviewed and exhibited no historical value.

b. Taxes on the property are current, there is a water bill of \$504.53.

c. The Standish-Ericsson Neighborhood Association and the owners within 350 feet of 4137 27th Avenue S. were mailed a request for a community impact statement. The Department of Inspections received seven in return, five recommended demolition and two recommended repair/renovate. Five commented that the property has had a negative impact on the neighborhood.

d. In 2000, the Standish neighborhood had 2,907 housing units; 2,747 were occupied and 60 were vacant. The vacancy rate in 2000 was 3.79%. Rental units made about 13% of the occupied housing units. Of the approximately 602 houses on the city's Vacant Building Registration, five are in the Standish neighborhood.

6. Nile House and Deketa Evans owned the property at 4137 27th Avenue S. and obtained a mortgage from Mortgage Electronic Registration Systems (MERS). MERS assigned the mortgage to HSBC Bank USA. Nile House and Deketa Evans defaulted and a sheriff's sale was held on October 31, 2006 with the redemption period expiring on April 3, 2007.

7. A fire occurred at the property in January of 2007 gutting the upper level and leaving smoke and water damage throughout the rest of the house and the property was boarded up. The property was condemned on May 11, 2007 for boards.

8. On June 26, 2007 Dick Stanton of MN REO scheduled a Code Compliance Inspection on behalf of the owner HSBC Bank USA. The Code Compliance Inspection took place on July 19, 2007.

9. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on July 26, 2007 to HSBC Bank USA and Dick Stanton of MN REO. Mr. Stanton filed an appeal of the order to demolish on August 9, 2007 on behalf of HSBC Bank USA. Mr. Stanton stated in his appeal that there was a signed purchase agreement in place prior to the condemnation and that they planned on making the necessary repairs and closing on the property. A hearing was set for September 13, 2007.

10. At the September 13, 2007 hearing Erik Heard appeared and indicated that he had a signed purchase agreement and was planning on rehabilitating the property.

11. The hearing was continued until December 13, 2007 for Mr. Heard to purchase the property and enter into a restoration agreement with the Department of Inspections.

12. On December 13, 2007 Mr. Heard appeared and stated that he was unable to close on the property due to the fact that the bank would not allow a closing on the property due to the fact that there was an order to demolish on the property. Mr. Heard stated that he is ready and willing to move forward with rehabilitation once he is able to purchase the property.

13. Wayne Murphy of the Department of Inspections indicated that the Department would be willing to enter into a restoration agreement with Mr. Heard if he is able to purchase the property and post a performance bond to cover the costs of completing the rehabilitation or

razing the property if Mr. Heard failed to complete the rehabilitation. Mr. Murphy also indicated that Mr. Heard has worked with the City in the past and done good work on other buildings he has rehabilitated.

CONCLUSIONS

1. The building located at 4137 27th Avenue 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 4137 27th Avenue S. 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 4137 27th Avenue 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 recommendation to demolish the building located at 4137 27th Avenue 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.

5. There is a responsible person who is willing to rehabilitate the property which would eliminate the negative impact the property is having on the neighborhood

RECOMMENDATION

That the Director of Inspections' Order to Demolish the building located at 4137 27th Avenue S., Minneapolis, Minnesota be stayed to allow the owner of the property to enter into a Restoration Agreement with the Department of Inspections to rehabilitate the property.

Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel