CITY OF MINNEAPOLIS
NUISANCE CONDITION PROCESS REVIEW PANEL

In the matter of the Appeal of Director's Order To Demolish the Property Located at 3111 Dupont Avenue N. Minneapolis, Minnesota.	**FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION**

This matter came on for hearing before the Nuisance Condition Process Review Panel on October 8, 2009. Burt Osborne, chair presided and other board members present included Bryan Tyner, Gerri Meyer and Patrick Todd. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division at the hearings. Mario and Alejandra Silva, the owners of the building, were present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 3111 Dupont Avenue N. is a single family dwelling in the Hawthorne neighborhood. The 2 story structure was built in 1914. The building is 1,480 square feet and sits on a 5,729 square foot lot.

2. The property located at 3111 Dupont Avenue N. has been determined to be substandard. Issues at the property include cracks in the foundation, roof damage, crumbling front steps, curling shingles, broken and rotted windows, and damaged and missing stucco.

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 3111 Dupont 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.

(3) Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building.

(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 located at 3111 Dupont Avenue N. 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 $111,126 to $153,341, based on the MEANS square footage estimate. The assessed value of the property for 2007 was $155,000 and $68,300 for 2008. The 2009 assessed value of the property is $51,000. The after rehab market value is estimated at $130,000, based on the assessment of the CPED contracted appraiser.

b. The Hawthorne Neighborhood Council and property owners within 350 feet of 3111 Dupont Avenue N. were mailed a request for a community impact statement. The Department of Inspections received zero (0).

c. In 2000 the vacant housing rate in the Hawthorne Neighborhood was around 8%. Of the approximately 823 houses on the city's Vacant Building Registration, 96 are in the Hawthorne Neighborhood, a neighborhood of approximately 2,015 housing units.

6. The building located at 3111 Dupont Avenue N. was condemned for being boarded and added to the City's Vacant Building Registration on June 14, 2006. The building has remained vacant and boarded since the spring of 2006.

7. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Raze and Remove was mailed on August 24, 2009, to Dante Darden; AMC Mortgage Services, Inc.; RRP I LLC; Shapiro, Nordmeyer & Zielke, LLP; Liquidation Properties, Inc.; Green River Capital and Grace Sharp. On September 11, 2009, Mario Silva filed an appeal of the order to demolish. In the appeal Mr. Silva stated that the property was purchased three months ago to be owner occupied and that the owners would complete the necessary repairs. The matter was then set for hearing on October 8, 2009.

8. At the October 8, 2009, hearing Mario and Alejandra Silva indicated that they wished to rehabilitate the property and live in the house. They also indicated that they had spoken with Department staff approximately three weeks before the October 8, 2009, hearing regarding their wish to rehabilitate. The owners stated that they had not provided the Department staff with a detailed plan for the rehabilitation but believed that they could complete the repairs for less than $100,000.

9. Department staff stated that the owners were told to put together a rehab plan with timelines and detailed description and estimates of the work to be completed. Staff indicated that the owners have not provided any estimates or timelines for the rehabilitation.

CONCLUSIONS

1. The building located at 3111 Dupont 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 3111 Dupont 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 (60) days.

3. The building located at 3111 Dupont Avenue N. meets the definition of a 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. The building located at 3111 Dupont Avenue N. 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 the building needs to be razed. The building has been vacant and boarded for over three years. The new owners do not have a plan in place to rehabilitate the property and have no estimate as to the cost of rehabilitation. With no plan in place to rehabilitate the property and no timeline to complete any rehabilitation the building will continue to be a nuisance in the neighborhood and affect the values of the surrounding properties.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3111 Dupont Avenue N., Minneapolis, Minnesota, be upheld.

Burt Osborne
Chair,
Nuisance Condition Process Review Panel