

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 635 Ontario S.E.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on July 9, 2009. Patrick Todd, acting chair, presided and other board members present included Bryan Tyner, Gerri Meyer and Grant Wilson. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division at the hearing. Nathan Hobbs Esq. of Patrick Burns and Associates, on behalf of Pop Goes the Weasel, LLC, owner of the property, was present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 635 Ontario Street S.E. is a duplex in the Prospect Park-East River Road neighborhood. The 2 story structure was built in 1900. The building is 1,664 square feet and sits on a 3,575 square foot lot.
2. The property located at 635 Ontario Street S.E. has been determined to be substandard. The property is in extreme disrepair and sustained substantial damage due to a fire in December of 2007. In 2008, the City of Minneapolis levied \$3,425.00 in special assessments against the property.
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 635 Ontario Street S.E. 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 635 Ontario Street S.E. 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 \$121,924 to \$160,884 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$82,000. The 2009 assessed value of the property is \$79,000.

b. The after rehab market value as determined by the CPED contracted appraiser is \$300,000.

c. The Prospect Park-East River Road Improvement Association and property owners within 350 feet of 635 Ontario Street S.E. were mailed a request for a community impact statement. The Department of Inspections received four (4) in return. All four stated that the property has a negative impact on the community and should be demolished.

d. In 2000 the vacant housing rate in the Prospect Park-East River Road Neighborhood was around 2%. Of the approximately 845 houses on the city's Vacant Building Registration, 3 are in the Prospect Park-East River Road Neighborhood, a neighborhood of approximately 2,494 housing units.

e. The Historic Preservation and Design staff has reviewed the property and determined that the property does not constitute a historic resource and have signed off on the wrecking permits.

6. The building located at 635 Ontario Street S.E. was added to the City's Vacant Building Registration and condemned for being a boarded building on February 6, 2008 and February 2, 2008 respectively. The building has remained vacant and boarded since that time.

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 April 1, 2009, to James Eischens; Union Planters Bank; The Realty House; Regions Bank; Pop Goes the Weasel, LLC; Leah King c/o Regions Bank; JP Morgan and Patrick Burns & Associates. On April 22, 2009, Pop Goes the Weasel LLC., filed an appeal stating "The owner files this appeal on the grounds that the owner is currently working with CPED on a redevelopment plan that includes the subject property and adjacent property." The matter was then set for hearing on July 9, 2009.

8. At the July 9, 2009, hearing Nathan Hobbs of Patrick Burns & Associates stated that the owner wishes to develop this property with the neighboring property also owned by the same LLC but that the current Development Plan moratorium in the area would not allow the development to proceed. The owner wishes for more time for the moratorium to end so that the development could go forward. Mr. Hobbs stated that if the building was torn down it would lose the rights to be a duplex and that it would have to be rebuilt as a single family home. Mr. Hobbs stated that the rehabilitation would be much less than the aftermarket value of \$300,000.00.

9. Two neighbors testified regarding the property. One testified that there are already two boarded up buildings and other uninhabited buildings within 300 yards of the property and that the neighborhood would benefit from the building being demolished. The other spoke in favor of the owner's plan to redevelop the property and stated that an empty lot would not benefit the neighborhood.

CONCLUSIONS

1. The building located at 635 Ontario Street S.E. 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 635 Ontario Street S.E. 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 635 Ontario Street S.E. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(3) as 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.

5. The building located at 635 Ontario Street S.E. 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 a year. This property sustained a substantial fire in 2007 and the owner has taken no steps to rehabilitate the property. The property has had a negative impact on the community and will continue to have a negative impact if it is not removed and the owner waits for some future opportunity to develop the lot with the adjacent lot.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 635 Ontario Street S.E., Minneapolis, Minnesota, be upheld.

Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel