

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2729 Cedar Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on April 22, 2010. Patrick Todd, acting chair, presided and other board members present included Patrick Hilden, and Ben Foster. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Grant Wilson represented the Inspections Division at the hearings. Pat Paulson, representing PMH Financial and Fannie Mae appeared at the hearing. The owner of the property, Fue Chang, did not appear at the hearing. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2729 Cedar Avenue S. is a single family dwelling in the East Phillips Neighborhood. The 1.2 story structure was built in 1916. The building is 860 square feet and sits on a 4,920 square foot lot.

2. The property located at 2729 Cedar Avenue S. has been determined to be substandard. A recent inspection revealed severe foundational issues, as well as problems with posts and beams. The back half of the house has been gutted to the studs, there are holes in the flooring, windows are severely deteriorated, there is mold, the roof is failing, and all asbestos must be abated. Additionally, the furnace must be replaced, as must all doors and windows. The City has hired contractors to cut grass and vegetation at the property seven (7) times and to

remove rubbish five (5) times since 2008. The City has assessed \$8,376 in fees to the property in levy year 2009.

3. The Assessor rates the overall building condition as fair but uninhabitable.

4. The Inspections Division of the City of Minneapolis determined that the property at 2729 Cedar 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.

(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 2729 Cedar Avenue S. 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 \$71,690.00 and \$90,140.00 based on the MEANS square footage estimate. The assessed value of the property for 2009 was \$69,900 and for 2010 the assessed value is \$63,000. The after rehab market value is estimated at \$115,000, based on the assessment of an independent appraiser.

b. The East Phillips Improvement Coalition and property owners within 350 feet of 2729 Cedar Avenue S. were mailed a request for community impact statements. The Department of Inspections received four (4) in response. All state that the property has had a negative impact on the community and should be demolished. They cite the long time that the property has been boarded and say that it has attracted nuisances and lowered property values.

c. In 2000 the vacant housing rate in the East Phillips Neighborhood was around 6%. Of the approximately 776 houses on the city's Vacant Building Registration, 19 are in the East Phillips Neighborhood, a neighborhood of approximately 1,162 housing units.

6. The building located at 2729 Cedar Avenue S. was added to the City Vacant Building Registry on June 16, 2006, and condemned for being a boarded building on December 3, 2008. The building has remained vacant and boarded since the fall of 2008.

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 December 14, 2009, to Fue Chang; Xay Lee Chang; MERS; Guaranty Residential Lending; Wilford & Geske; Countrywide Home Loans and Peterson, Fram & Bergman. On January 11, 2010, Fue Chang, owner of the property filed an appeal stating that "the home is currently under a short sale term agreement." A hearing was set for April 22, 2010.

8. At the April 22, 2010, hearing Pat Paulson spoke on behalf of PMH Financial and Fannie Mae stating that a Sheriff's sale occurred on February 26, 2010, and that the redemption period would expire in August of 2010. Mr. Paulson requested that the demolition be stayed so that the bank could retain the property after the redemption period and review their options at that time.

CONCLUSIONS

1. The building located at 2729 Cedar 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 2729 Cedar 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 (60) days.

3. The building located at 2729 Cedar Avenue S. 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 2729 Cedar Avenue S. 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 2729 Cedar Avenue S. 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 for over four years and boarded for over two years. There is no current plan in place by anyone, with an interest in the property, to rehabilitate the property. 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 2729 Cedar Avenue S., Minneapolis, Minnesota, be upheld.

Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel