

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2012 29th Ave. S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel at Rental Dwelling License Board of Appeals on November 8, 2007 in City Council Chambers located in Minneapolis City Hall. Acting Board Chair Grant Wilson presided over the hearing. Other board members present included Elfric Porte and Elizabeth Ryan. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division. Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke, was present representing Indy Mac Bank. Brian Miller, representing Seward Redesign the community development group for the Seward neighborhood, was present. Kristin Siegesmund from Legal Aid was present representing Georgianne O'Neill. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2012 29th Avenue S. is a one-story house of 594 square feet. The building built in 1905, sits on a 40 x 158 foot lot. The single family house located in the Seward Neighborhood has one bedroom and one bathroom. The property has a two car garage.
2. The property located at 2012 29th Avenue S. has been on the Vacant Building Registration since July 25, 2006. The property was placarded with a Letter of Intent to Condemn for lack of utilities on January 27, 2006 and was Condemned for Lack of Maintenance on May

22, 2006. The property was also placarded with a Letter of Intent to Condemn for Boards on June 1, 2006 and Condemned for Boards on August 3, 2006.

3. The Inspections Division of the City of Minneapolis determined that the property at 2012 29th 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.

4. 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 \$53,400 to \$65,300 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 \$70,000. The Assessor values the house at \$100 and the land at \$86,400. The Assessor rates the property as substandard, poor and uninhabitable. The property was reviewed and exhibited no historical value.

b. Taxes on the property are current and there is a \$22.73 water bill.

c. The Seward Neighborhood Group and the owners of properties within 350 feet of 2012 29th Avenue S. were mailed a request for a community impact statement. The Department of Inspections received 7 in return, 6 recommended demolition, 1 recommended repair/renovate. Six commented that the property has had a negative impact on the neighborhood; one commented that "could be a very nice property if renovated." One neighbor stated, "It is in such a state of disrepair that no one is going to invest what is needed to bring it up to code and make it a useful part of the neighborhood."

d. In 2000, the Seward neighborhood had 3,805 housing units; That's 20 fewer than a decade earlier, but 135 more than 1980. In 2000, there was a 1.26% rental vacancy rate and a .46% homeowner vacancy rate.

5. On March 8, 2005, Georgianne O'Neill conveyed title to Linda Shirley via Warranty Deed document 85060468 for a sale price of \$165,000. On that date Linda Shirley entered into a mortgage for \$132,000 with Indy Mac Bank.

6. Linda Shirley defaulted on her mortgage with Indy Mac Bank and a sheriff's sale was scheduled for December 26, 2006.

7. On December 6, 2007 Linda Shirley conveyed the property, via Warranty Deed, to Seward Redesign, the community development group for the Seward Neighborhood.

8. Prior to the sheriff's sale on December 26, 2007 Indy Mac Bank was contacted by attorney's for Georgianne O'Neill who believed that she was still the owner of the property. The sheriff's sale was cancelled.

9. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on September 27, 2007 to Linda Shirley, the owner of record in City records and in the Title search; Seward Redesign Inc., Taxpayer of record in Hennepin County records; Shapiro Nordmeyer & Zielke, LLP and Federal Savings Bank.

10. On October 18, 2007 Kristine Spiegelberg from the Law Firm of Shapiro Nordmeyer & Zielke filed an appeal of the Director's Order to Demolish on behalf of Indy Mac Bank. A hearing was scheduled for November 8, 2007.

11. On November 8, 2007 Kristine Spiegelberg appeared for the appeals hearing and requested that the matter be continued so that any ownership issues regarding the property could be resolved.

12. Brian Miller, representing Seward Redesign Inc., appeared and indicated that they were the taxpayers on the property and had acquired the property via Warranty Deed from Linda Shirley and that they agreed with the Director's Order to raze the property. Mr. Miller also indicated that Seward Redesign Inc. had made several attempts to contact Indy Mac Bank through Shapiro Nordmeyer & Zielke but that they were not contacted by Indy Mac Bank.

13. Kristin Siegesmund, a Legal Aid Attorney representing Georgianne O'Neill, appeared and stated that her client was in agreement with the Order to raze the property.

CONCLUSIONS

1. The building located at 2012 29th 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 2012 29th 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 2012 29th 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 order to demolish the building located at 2012 29th 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. The building has been on the Vacant Building Registration since July 25, 2006 and has been boarded up since at least June 1, 2006. In addition

the building has been condemned for lack of maintenance since May 22, 2006. The property continues and will continue to have a negative impact on the neighborhood in its current condition.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3021 Park Avenue S., Minneapolis, Minnesota be upheld.

 12-6-07
Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel