

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2440 16th Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on December 11, 2008, in City Council Chambers located in Minneapolis City Hall. Burt Osborne, chair, presided and other board members present included Patrick Todd, Bryan Tyner and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division. Christina Weber Esq, of Wilford & Geske P.A. appeared on behalf of the owner, RMS Residential Properties LLC. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. This matter came before this panel first on December 13, 2007 with this panel finding that the property was a nuisance condition and recommending that the owner, Specialized Loan Servicing, L.L.C. be allowed to rehabilitate the property to eliminate the nuisance condition. *See* Findings of Fact, Conclusions and Recommendation of the Nuisance Condition Process Review Panel Hearing December 13, 2007.

2. This matter was to be brought before the Public Safety and Regulatory Services Committee of the Minneapolis City Council for a vote on this panel's recommendation for rehabilitation. The matter was withdraw by Department staff prior to hearing to review two

outstanding issues- zoning rights expiration and whether the building needed have sprinklers installed for fire protection.

3. Tom Deegan, Manager of the Problem Properties Unit of the Department of Inspections, met with Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke, L.L.P. who was representing the property owner Specialized Loan Servicing, L.L.C. The meeting was to relay the issues regarding the property, to discuss options and request that the owner develop a plan and return the matter to this panel for further discussion.

4. During this process the mortgage was assigned to RMS Residential Properties LLC., and the property was the subject to a sheriff's foreclosure sale on April 4, 2008 with RMS Residential Properties LLC submitting the winning bid at \$222,000.

5. On April 20, 2008 a Code Compliance inspection was ordered by Beth at CE Murphy and an inspection was completed. No permits to do the work have been requested.

6. On August 23, 2008 the zoning rights for a 4-plex expired as the building had remained vacant for over one year.

7. On October 6, 2008 the redemption period expired and RMS Residential Properties LLC., gained title to the property.

8. Findings of facts 1-6 from the December 13, 2007 hearing regarding this matter are hereby incorporated into these findings.

9. Christina Weber, representing the owner, indicated at the hearing that her client has contractors available to complete rehabilitation of the building but did not present an estimate of the cost to rehabilitate or a timeline for the completion of a potential rehabilitation. Ms. Weber was also unaware of the loss of non-conforming use rights and the impact that would have on the potential costs of rehabilitation.

10. The Department's recommendation was to demolish the property as it constituted a nuisance condition and the loss of non-conforming use rights made rehabilitation of the property unfeasible.

CONCLUSIONS

1. The building located at 2440 16th 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 2440 16th 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.

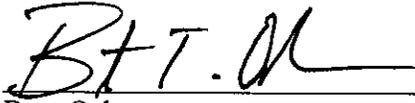
3. The building located at 2440 16th Avenue S. meets the definition of a nuisance condition as set forth in M.C.O. § 249.30(a)(3) as evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building;

4. The building located at 2440 16th 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.

5. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's recommendation to demolish the building located at 2440 16th 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 condemned for being a boarded building since August of 2007. No permits have been requested since the Code Compliance Inspection was completed in April of 2008. The building has been vacant for over a year and has lost its non-conforming use rights to be used as a 4-plex making rehabilitation unfeasible. Left as it is the property will continue to have a negative impact on the neighborhood.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2440 16th Avenue S. Minneapolis, Minnesota, be upheld.

 1/22/09
Burt Osborne (Date)
Chair,
Nuisance Condition Process Review Panel