

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 3549 40th Ave. S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on July 10, 2008, in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided and other board members present included Patrick Todd, Bryan Tyner and Geri Meyer. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan represented the Inspections Division. The owner Richard Rea appeared for the hearing. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 3549 40th Avenue S. is a duplex (listed as a triplex in County records) in the Howe neighborhood. The two story house was built in 1912. The building is 1920 square feet and sits on a 7,680 square-foot corner lot. Unit 1 has five rooms, including two bedrooms. Unit 2 has four rooms, including two bedrooms.
2. The property located at 3549 40th Avenue S. sustained a fire on August 23, 2007, that severely damaged the building. The property was condemned for being a boarded building on October 30, 2007.
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 3107 Humboldt 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.

5. 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 \$144,000 - \$182,500, based on the MEANS square footage estimate. The assessed value of the property is \$100,600 (2008). In 2007 the assessed value was \$209,700. The decreased value was the result of the damage from the fire.

b. The Preservation and Design Team staff conducted an historic review of the property finding that the property does not have historic integrity and the demolition will have little or no adverse impact on historical neighborhood context. The Team has signed off on the wrecking permits.

c. The Longfellow Community Council and the owners within 350 feet of 3549 40th Avenue S. were mailed a request for a community impact statement. The Department of Inspections received 27 in return. 26 statements said the property has had a negative impact on the neighborhood, does not fit the housing needs of the neighborhood and should be demolished. One statement spoke highly of the property owner's responsiveness and indicated that he deserved a chance to fix the property if he is able.

d. The vacant housing rate in the Howe neighborhood is around 1%. Of the approximately 924 houses on the city's Vacant Building Registration, 5 are in the Howe neighborhood alone, a neighborhood of approximately 3,091 housing units.

6. Mr. Richard Rea purchased the property located at 3549 40th Avenue S. from Mr. David R. Johnson on a contract for deed in December 1995 for \$65,000.

7. The property at 3549 40th Avenue S. was subject to a fire on August 23, 2007, and was boarded as a result of the fire. The boards were not removed and the building was condemned for being a boarded building on October 30, 2007, and placed on the Vacant Building Registration on October 30, 2007.

8. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on June 2, 2008, to Richard Rea and David R. Johnson. On June

13, 2008, Mr. Rea filed an appeal stating that he planned to rehab the property but had not started work because David Johnson had not released the insurance proceeds to him.

9. On June 16, 2008, Mr. Rea called and requested a Code Compliance Inspection for the property. On June 24, 2008, Mr. Rea called to cancel the inspection then later changed his mind and the Code Compliance Inspection was completed on July 7, 2008.

10. At the July 10, 2008, hearing Mr. Rea appeared and requested that he be given an opportunity to rehab the property. Mr. Rea indicated that he had recently received the insurance money from Mr. Johnson and would be able to start on the rehab. Mr. Rea admitted that he had not completed any work at the property in the nearly one year since the fire occurred at the property.

11. Mr. Rea was not able to supply an estimate to rehab the house.

CONCLUSIONS

1. The building located at 3549 40th 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 3549 40th 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 3549 40th 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 recommendation to raze the building located at 3549 40th 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 razing the building is appropriate. The building sustained a fire nearly one year ago and the owner has not worked to fix the property, allowing it to become a problem building in the neighborhood as attested to by the twenty-six community impact statements submitted by neighbors requesting that the building be torn down.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3549 40th Avenue S., Minneapolis, Minnesota be upheld.

A handwritten signature in black ink, appearing to read "Burt Osborne", with a long horizontal line extending to the right.

Burt Osborne
Chair,
Nuisance Condition Process Review Panel