

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 139 27th Street East
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on June 11, 2009, in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, acting chair, presided and other board members present included Bryan Tyner and Pete Pelletier. The matter was continued and was heard again 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. Wayne Murphy represented the Inspections Division at the hearing. Chris Carrow, representing the property, was present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 139 27th Street E. is a single family home in the Whittier neighborhood. The 1.5 story structure was built in 1909. The building is 1,204 square feet and sits on a 1,901 square foot lot.
2. The property located at 139 27th Street E.3 has been determined to be substandard due to a severe fire that occurred in May of 2008, which caused significant fire, smoke and water damage. Structural issues include fire damaged and rotting subfloor, damaged joist and ceiling beams, damaged wall studs and floor joists, damaged roofing, structurally deficient stairs,

cracked foundation, exterior landing and steps damaged beyond repair, fire damaged floor decking. All new heating plant, gas piping and venting are also needed. In 2009, the City of Minneapolis levied \$1,940 in special assessments against the property. There are currently pending assessments in the amount of \$6,000.00.

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 139 27th Street 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 139 27th Street 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 \$90,346 to \$121,366 based on the MEANS square footage estimate. The assessed value of the property for 2008 was \$126,500. The 2009 assessed value of the property is \$65,000.

b. The Whittier Alliance and property owners within 350 feet of 139 27th Street E. were mailed a request for a community impact statement. The Department of Inspections received two (2) in return. One stated the house has had no impact, while the other said it has a negative impact and should be renovated.

c. In 2000 the vacant housing rate in the Whittier Neighborhood was around 3%. Of the approximately 839 houses on the city's Vacant Building Registration, 15 are in the Whittier Neighborhood, a neighborhood of approximately 7,265 housing units.

6. The building located at 139 27th Street E. was added to the City's Vacant Building Registration and condemned for being a boarded building on August 25, 2008, and has remained vacant and boarded since that time.

7. The property located at 139 27th Street E. was owned by Gregge and Barbara Johnson who defaulted on their mortgage and a Sheriff's foreclosure sale was held on November

4, 2008. On May 4, 2009, Saxon Mortgage Services gained title to the property after the redemption period expired. Dick Stanton of MN REO ordered a Code Compliance Inspection which was conducted on March 13, 2009.

8. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Raze and Remove was mailed on March 25, 2009, to Deutsche Bank Trust Company Americas, c/o Saxon Mortgage Services; Shapiro, Nordmeyer and Zielke; Town and Country Credit; Gregge and Barbara Johnson; the IRS; Minnesota Dept. of Revenue and Dick Stanton. On April 2, 2009, Dick Stanton of MN REO filed an appeal on behalf of the owner stating "submitting bids for rehab." The matter was then set for hearing on June 11, 2009.

9. At the June 11, 2009, hearing Chris Carrow appeared and indicated that he had purchased the property and wished to work out a rehabilitation plan with the department. The matter was continued one month to allow for the new owner to present a rehabilitation plant to staff and to the Board.

10. At the July 9, 2009, hearing department staff stated that Mr. Carrow's plan for rehabilitation met all the requirements needed to enter into a rehabilitation agreement. There appeared to be the financial ability to complete the rehabilitation and the estimates and line item bids were in line with what needed to be done at the property.

CONCLUSIONS

1. The building located at 139 27th Street 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 139 27th Street 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 139 27th Street 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,

4. 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 the building needs to be rehabilitated or razed. The building has been vacant and boarded approximately one year. This property has been neglected to the point that it has had a negative impact on the community and will continue to have a negative impact if it is not removed or rehabilitated.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 139 27th Street E. Minneapolis, Minnesota, be forwarded without recommendation.

Patrick Todd
Acting Chair,
Nuisance Condition Process Review Panel