

**CITY OF MINNEAPOLIS
CHAPTER 249 APPEALS PANEL**

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2905 Dupont Avenue N.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Chapter 249 Appeals Panel on March 8, 2007, December 13, 2007 and January 10, 2008 in City Council Chambers located in Minneapolis City Hall. At the March 8, 2007 hearing Burt Osborne presided and other board members present included Patrick Todd, Dave Dewall and Elfric Porte. At the December 13, 2007 hearing Grant Wilson presided and other board members present included Jim Dahl, Geri Meyer and Pete Pelletier. At the January 10, 2008 hearing Burt Osborne presided and other board members present included Brian Tyner and Alfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. Benjamin Igherighe, the owner of the property located at 2905 Dupont Ave. N. was present at the March 8, 2007 and December 13, 2007 hearings. Also present at the March 8, 2007 hearing was Barry Rohweder, the contractor hired by Mr. Igherighe to complete the restoration of the property. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2905 Dupont Avenue N. is a single family dwelling located in the Hawthorne neighborhood. The 1 ½ story house was built in 1900. The house has four rooms and a half bath

on the first floor and two bedrooms and a full bath on the second floor. The building is 1401 square feet and sits on a 5,084 square foot lot.

2. The property located at 2905 Dupont Avenue N. sustained a fire on September 21, 2006 that gutted the interior and was condemned on November 27, 2006 for being a boarded building.

3. The Assessor rates the overall building condition as average-minus and uninhabitable.

4. The Inspections Division of the City of Minneapolis determined that the property at 2905 Dupont 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; 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.*

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 \$154,000 to \$168,000 based on the MEANS square footage estimate. The Community Planning and Economic Development (CEPED) staff appraiser valued the property as a vacant parcel of land, based upon the fire that occurred at the property and that the house was not salvageable, and determined that the market value after demolition to be \$10,900. The assessed value of the property is \$105,500 (2005), \$95,000 (2006), \$67,000 (2007). The property was reviewed and exhibited no historical value.
- b. Taxes on the property are current.
- c. The Hawthorne Area Community Council and the owners within 350 feet of 2905 Dupont Avenue N. were mailed a request for a community impact statement. The Department of Inspections received one in return which recommended demolition and commented that the property had a negative impact on the neighborhood.
- d. The vacant housing rate in the Hawthorne neighborhood is around 10%. Of the approximately 397 houses on the city's Vacant Building Registration, 57 are in

the Hawthorne neighborhood alone, a neighborhood of approximately 2,015 housing units.

6. Benjamin and Roxanne Igherighe, bought 2905 Dupont Avenue N. on July 22, 2002 for \$129,150. Their mortgage was with Maribella Mortgage, LLC. The Mortgage was assigned to JP Morgan Chase Bank, as Trustee c/o Residential Funding Corporation on October 9 2003. Power of Attorney to Foreclose Mortgage was filed by Shapiro, Nordmeyer LLP. on May 15, 2006.

7. A fire occurred at the property on September 21, 2006 gutting the interior was boarded up. The property was condemned on November 27, 2006 for boards.

8. A Code Compliance Inspection was conducted on January 22, 2007 and the written orders were sent to Barry Rohweder on January 24, 2007.

9. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on February 1, 2007 to Roxanne W. Igherighe and Ben Igherighe; Maribella Mortgage LLC.; JP Morgan Chase Bank; Jeanne B. Kedrowski; and Shapiro, Nordmeyer & Zielke LLP. Mr. Igherighe filed and appeal of the order to demolish on February 7, 2007. Mr. Igherighe stated in is appeal that "We have Insurance settlement to make repairs and have a general contractor that will do the repairs". A hearing was set for March 8, 2007.

10. At the March 8, 2007 Mr. Igherighe and Mr. Rohweder requested that they be allowed to rehabilitate the property

11. The Chapter 249 Appeals Panel voted in favor of allowing rehabilitation.

12. On March 16, 2007 Barry Rohweder, the principal contractor for Advanced Restoration, entered into a restoration agreement with the Department of Regulatory Services.

Pursuant to the Restoration Agreement, two thousand dollars was placed into escrow with the city and the repairs were to be completed by September 7, 2007.

13. Since the signing of the Restoration Agreement on March 16, 2007 two permits were obtained: a plumbing permit to install plumbing fixtures and a remodeling permit to do work valued at \$129,000. Permits were not obtained to complete any other work requiring permits.

14. On September 27, 2007 Mr. Rohweder received a certified letter from the Problem Properties Unit indicating that he had failed to meet the terms of the Restoration Agreement and that per the terms of the Agreement fines of up to \$300.00 per day could be imposed and that demolition of the house would be a possibility if the restoration was not completed.

15. On December 5, 2007 letters were sent to Benjamin Igherighe and Barry Rohweder informing them that the matter had been placed on the December 13, 2007 agenda of the Chapter 249 Appeals Panel and that they were to update the Panel as to the reasons for the delay in compliance with the Restoration Agreement.

16. On December 13, 2007 Mr. Igherighe stated that the property was being worked on and that nearly \$80,000 of the money from the insurance settlement had been paid to Barry Rohweder who had been doing the work at the property. Mr. Igherighe did not present any photographs of the work that had been completed on the house and the photos from Department staff showed little work had been done on the exterior of the house.

17. The Chapter 249 Appeals Panel directed staff to work with the owner and secure interior photos of the house as to demonstrate the amount of work that had been completed at the house and to return to the Panel on January 10, 2008 for an update.

18. Notices of the January 10, 2008 hearing were sent to Benjamin Igherighe and Barry Rohweder.

19. At the January 10, 2008 hearing neither Benjamin Igherighe nor Barry Rohweder appeared. Department staff presented photos of the interior work which showed that the work that had been completed did not come close to the \$80,000 amount that had been claimed by Mr. Igherighe at the December 13, 2007 hearing.

20. The recommendation of the Department of Inspections was to raze the property based upon the non-compliance with the Restoration Agreement.

CONCLUSIONS

1. The building located at 2905 Dupont Avenue N. 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 2905 Dupont Avenue N. 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 2905 Dupont Avenue N. 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 demolish the building located at 2905 Dupont Avenue N. 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 owner of the building was allowed to attempt to rehabilitate the property but has failed to take the appropriate actions necessary to follow the Restoration Agreement. The building has now been vacant and boarded for approximately a year and a half and will continue to have a negative impact in the neighborhood.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2905 Dupont Avenue N., Minneapolis, Minnesota be upheld.

Burt Osborne
Chair,
Chapter 249 Appeals Panel