

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 1008 Lowry Avenue N.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on September 13, 2007, January 10, 2008 and February 14, 2008 in City Council Chambers located in Minneapolis City Hall. At the September 13, 2007 hearing Burt Osborne presided and other board members present included Patrick Todd, Dave Dewall and Elfric Porte. At the January 10, 2008 Burt Osborne presided and other board members present included Brian Tyner and Alfric Porte. At the February 14, 2008 hearing Grant Wilson presided and other board members present included Patrick Todd, Elfric Porte and James Dahl. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy and Tom Deegan represented the Inspections Division. Christina Weber of the Law Firm of Wilford and Geske represented the owner Duetsche Bank AG, New Your Branch at the September 13, 2007, January 10, 2008 and February 14, 2008 hearings. Also present at the September 13, 2007 hearing was Todd Williams a potential purchaser of the property. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 1008 Lowry Avenue N. is a one-story, wood-framed 802 square foot single family house. It was built in 1917. The house has two bedrooms and one full bathroom. It sits on a 2907 square foot irregularly shaped lot measuring 63 ft. x 46 ft.

2. The property located at 1008 Lowry Avenue N. was condemned for being a boarded building on January 26, 2006. The aluminum siding has been stolen by vandals exposing the house to the elements for several months.

3. The Assessor rates the overall building condition as fair but uninhabitable.

4. The Inspections Division of the City of Minneapolis determined that the property at 1008 Lowry 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 \$72,200- \$88,000 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 \$100,300. The taxable value of the property is \$48,000. The property was reviewed and exhibited no historical value.
- b. Taxes on the property are current though there are special assessments pending for 2007 in the amount of \$3,974.16 and an additional \$1,378.50 in special assessments were assessed in 2006. There is a water bill of \$171.33.
- c. The McKinley Neighborhood Association and the owners within 350 feet of 1008 Lowry Avenue N. were mailed a request for a community impact statement. The Department of Inspections received eight in return, two recommended demolition and six recommended repair/renovate. Two commented that the property has had a negative impact on the neighborhood.
- d. In 2000, the McKinley neighborhood had 1,167 housing units; 1,069 were occupied and 98 were vacant. The vacancy rate in 2000 was 5.5%. Rental units made about a quarter of the occupied housing units in the McKinley neighborhood in 2000 up from about 20% in 1990. The owner-occupied housing units had a vacancy rate of 1.85%; the rental vacancy rate was 10.2% in 2000. Due to the current foreclosure crisis in North Minneapolis these vacancy rates will be much higher in 2007. Of the approximately 602 houses on the City's Vacant Building Registration, twenty four are in the McKinley neighborhood.

6. Mr. Ronnie Blanks purchased the property in May 1998 for \$70,000. In November of 2006 Mr. Blanks defaulted on his mortgage and a sheriff's sale was held on December 1, 2006. Deutsche Bank AG New York Branch purchased the property at the sheriff's sale for \$114,860.03. The redemption period expired on June 1, 2007.

7. The property was posted with a letter of intent to condemn for being a boarded building on November 23, 2005. The boards were not removed and the building was condemned for being a boarded building on January 26, 2006 and placed on the Vacant Building Registration on February 3, 2006. Since the building was condemned much of the aluminum siding has been stolen by vandals exposing the building to the elements for some time.

8. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on July 26, 2007 to Deutsche Bank AG, New York Branch; Town and Country Credit Corp; Ronnie J. Blanks; Home Ownership Center; Northside Residents Redevelopment Council and Hennepin County Taxpayer Services. Christina Weber of Wilford & Geske Law Firm filed an appeal of the order to demolish on August 15, 2007 on behalf of Deutsche Bank AG, New York Branch. Ms. Weber stated in her appeal that the property did not constitute a nuisance and that the current owner had found a buyer willing to rehabilitate the property. A hearing was set for September 13, 2007.

9. At the September 13, 2007 hearing the Todd Williams appeared and indicated that he owned property adjacent to 1008 Lowry and wished to purchase and rehabilitate the property.

10. The hearing was continued until October 4, 2007 to allow City staff to work out a restoration agreement with Mr. Williams. The matter was then pulled from the agenda for the October 4, 2007 hearing to give the parties more time to work on a restoration agreement and the matter was continued until January 10, 2008.

11. On January 10, 2008 Ms. Weber appeared and stated that Mr. Williams was unable to close on the property due to the fact that the bank would not allow a closing on the property due to the fact that there was an order to demolish on the property. Ms. Weber indicated that Mr. Williams was still ready and willing to move forward with rehabilitation once he was able to purchase the property.

12. The matter was continued one cycle to allow City staff to work with the Bank and the potential owner to enter into a restoration agreement.

13. At the February 14, 2008 hearing Tom Deegan, Manager of the Problem Properties Unit, stated that a restoration agreement was in place and that the Department was recommending that the property be rehabilitated.

CONCLUSIONS

1. The building located at 1008 Lowry 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 1008 Lowry 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.

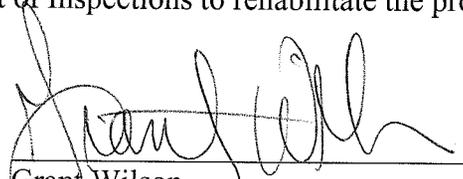
3. The building located at 1008 Lowry Avenue N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.

4. There is a responsible person who is willing to rehabilitate the property which would eliminate the negative impact the property is having on the neighborhood. The owner of the building has found a purchaser who is willing and able to rehabilitate the property and has an interest in properly rehabilitating the property as he owns property adjacent to the building.

5. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's recommendation to rehabilitate the building located at 1008 Lowry 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 rehabilitation of the building is appropriate.

RECOMMENDATION

That the Director of Inspections' Order to Demolish the building located at 1008 Lowry Avenue N., Minneapolis, Minnesota be stayed to allow the owner of the property to enter into a Restoration Agreement with the Department of Inspections to rehabilitate the property.

 3/24/08
Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel