

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

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**In the matter of the Appeal of  
Director's Order To  
Demolish the Property  
Located at 3315 Thomas Ave. N.  
in Minneapolis, Minnesota.**

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

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This matter came on for hearing before the Nuisance Condition Process Review Panel at Rental Dwelling License Board of Appeals at 3:05 p.m. on May 10, 2007 in City Council Chambers located in Minneapolis City Hall. Board Chair Burt Osborne presided. Other board members present included Patrick Todd, Dave Dewall and Elfric Porte. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan, Manager Minneapolis Problem Properties Unit and Wayne Murphy represented the Inspections Division. Randy Babcock, the owner of 3315 Thomas Ave. N. was present for the appeal hearing scheduled for April 12, 2007. No appearances were made by the owners or representatives of the owners at the May 10, 2007 hearing. Based upon the Board's consideration of the entire record, the Board makes the following:

**FINDINGS OF FACT**

1. Randy Babcock owns the property located at 3315 James Ave. N., Minneapolis, Minnesota. The structure is a single family dwelling in the Cleveland neighborhood. The 1.2 story house was built in 1922. The building is 864 square feet and sits on a 5,109 square foot lot with a two-stalled detached garage. The house has two bedrooms and one full bath and no basement. The building was condemned on October 13, 2006 for being a boarded building. The

property has been determined to be substandard and uninhabitable due to being boarded and due to a substantial fire that occurred on July 31, 2006.

2. The Inspections Division of the City of Minneapolis determined that the property at 3315 Thomas Ave. N. meet 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.*

3. 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 \$95,600 to \$104,800 based on the MEANS square footage estimate. The assessed value of the property is \$115,500 (2005), \$95,000 (2006) and \$67,000 (2007). The estimated value after rehab according to the appraisal obtained from Minneapolis Community Planning and Economic Development staff is \$86,400. The Assessor rates the condition of the building as fair and has found that it is uninhabitable. The property has no architectural or historic value/designation.

b. There is \$2,347 in pending special assessments on the property for 2007 and \$1,284 were assessed in 2006.

c. The Cleveland Area Community Council and the owners of properties within 350 feet of 3315 Thomas Ave. N. were mailed a request for a community impact statement. The Inspections Division received one impact statement in return. The impact statement recommended demolition and commented that the property has had a negative impact on the neighborhood.

d. The vacant housing rate in the Cleveland neighborhood is around 10%. Of the approximately 360 houses on the city's Vacant Building Registration, 48 are in the Cleveland neighborhood alone, a neighborhood of approximately 2,015 housing units.

4. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on January 24, 2007 to Michael C. Deziel, the owner of record, First Family Mortgage Corp of Florida and Steven H. Berndt, Zappia & LeVahn Ltd, Attorney at Law.

5. On February 8, 2007 The Law Firm of Heuer & Associates, on behalf of Michael Deziel, filed an appeal of the Director's order to demolish pursuant to M.C.O. § 249.45(c) and a hearing was scheduled for March 8, 2007. On February 23 Michael Deziel sold the property to Randy Babcock. On March 8, 2007 Randy Babcock requested a continuance of the hearing so that a Code Compliance Inspection could be conducted on the property and so he could enter into a restoration agreement with the Department of Inspections. Pursuant to this request the appeals hearing was continued to April 12, 2007.

6. On March 21, 2007 a Code Compliance Inspection was conducted at the property. On March 28, 2007 the check issued by Randy Babcock for the Code Compliance Inspection was returned for non sufficient funds.

7. On April 12, 2007 Randy Babcock appeared for the appeals hearing and indicated that he would make good on the check that had been returned for non sufficient funds and would meet with the Department of Inspections staff to work out a restoration agreement.

8. The matter was continued to May 10, 2007 for a restoration agreement to be worked out between the Department of Inspections and Mr. Babcock.

9. On May 10, 2007 no appearances were made on behalf of appellant or the new owner Randy Babcock. The Department of Inspections stated that Mr. Babcock had made good on the check that had been returned for non sufficient funds but that he had not been in to meet with them to complete a restoration agreement.

## **CONCLUSIONS**

1. The building located at 3315 Thomas Ave. 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 3315 Thomas Ave. N. 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 3315 Thomas Ave. 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 order to demolish the building located at 3315 Thomas Ave. 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 building has been vacant and boarded for almost one year, was the subject of a substantial fire making it uninhabitable and has no historic value. In addition the community feels that the property has had a negative impact on the neighborhood.

### **RECOMMENDATION**

That the Director of Inspections' Order to Raze the building located at 3315 Thomas Ave. N., Minneapolis, Minnesota be upheld.

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Burt Osborne  
Chair,  
Nuisance Condition Process Review Panel