

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2540 Cedar Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on April 9, 2009, in City Council Chambers located in Minneapolis City Hall. Burt Osborne, chair, presided at other board members present included 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. Dan Boler of Metropolitan Capital Ventures, owner of 2540 Cedar Avenue S., was present. Also present from the community were Carol Pass and Linda Leonard. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2540 Cedar Avenue S. is a duplex in the East Phillips neighborhood. The two story structure was built in 1900. The building is 3,035 square feet and sits on a 7,109 square-foot lot.
2. The property located at 2540 Cedar Avenue S. is in disrepair. There are 28 open housing orders at the property including but not limited to: repair ceilings, repair floors, repair or replace exterior walls, repair roof overhang. Additionally, interior and exterior inspections of the property revealed extensive cosmetic and structural deterioration. Twelve nuisance orders have been written for the property since 2007, including four instances of grass cutting, seven cases of

rubbish removal, and two instances of brush or branch cutting. All of these violations have resulted in abatement by City-hired contractors.

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

4. The Inspections Division of the City of Minneapolis determined that the property at 2540 Cedar Avenue S. 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.

(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 \$162,402.50 to \$216,445.00 based on the MEANS square footage estimate. The assessed value of the property in 2009 was \$87,500.

b. The CPED contracted appraiser determined the after-rehab market value of the property to be \$210,000.

c. The Preservation and Design Team staff conducted a historic review of the property finding that the property has no 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.

d. The East Phillips Improvement Coalition and property owners within 350 feet of 2540 Cedar Avenue S. were mailed a request for a community impact statement. The Department of Inspections received none in return

e. The vacant housing rate in the East Phillips Neighborhood is around 6%. Of the 839 houses on the city's Vacant Building Registration, 17 are in the East Phillips Neighborhood, a neighborhood of approximately 1,162 housing units.

6. On October 23, 2006, the property located at 2540 Cedar Avenue S. was condemned for being a boarded building and was placed on the city's Vacant Building Registry.

7. Metropolitan Capital Ventures, the current owner of 2540 Cedar Avenue S. acquired the property in January of 2007 and the property has remained vacant and boarded since the acquisition.

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 November 7, 2008 to Metropolitan Capital Ventures, L.L.C.; Globe Companies; FRS; University National Bank and Kathleen Gorzycki.

9. On February 10, 2009, Dan Boler of Metropolitan Capital Ventures filed and appeal stating: "Metropolitan Capital Ventures plans to enter into a rehabilitation agreement with the city. It has always been our intention to rehab this property. We have been delayed by circumstances relating to the credit markets."

10. After receiving the Director's Order to Demolish, Metropolitan Capital Ventures ordered a Code Compliance Inspection and that inspection was completed on March 20, 2009.

11. On March 31, 2009, Metropolitan Capital Ventures submitted a sworn construction statement and scope of work, based upon an old Code Compliance Inspection, with an estimate of \$91,719.00 to complete the rehabilitation of the property.

12. At the April 9, 2009, hearing Mr. Boler indicated that he now has the funds to complete the project, but that a previous buyer was unable to secure a loan and thus unable to complete the purchase of the property.

13. At the April 9, 2009, hearing two neighborhood residents spoke indicating that they would prefer that the property be rehabilitated if there is a timely plan to have the property rehabilitated.

CONCLUSIONS

1. The building located at 2540 Cedar 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.

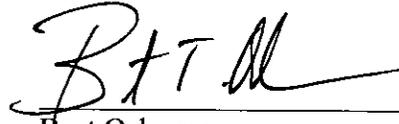
2. The building located at 2540 Cedar Avenue S. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction 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 2540 Cedar Avenue S. meets the definition of a 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 2540 Cedar 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 has been condemned for over two years and the owners have not taken the proper steps to bring the property out of condemnation in the two years that they have owned the property. The current owner did take down the garage as it was a hazard and cleared out the interior for a rough-in. The current owner has indicated that he has the funds to complete the project. This property has been neglected to the point that it has had a negative impact on the community.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 2540 Cedar Avenue S. Minneapolis, Minnesota, be upheld.

 6/10/09

Burt Osborne

Date

Chair,

Nuisance Condition Process Review Panel