

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 3445 Elliot Ave. S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on November 8, 2007, and December 13, 2007 in City Council Chambers located in Minneapolis City Hall. At the November 8th hearing Grant Wilson presided over the hearing and other board members present included Elfric Porte and Elizabeth Ryan. Assistant City Attorney Lee C Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division at the hearing. The matter was continued to the December 13, 2007 hearing of the Nuisance Condition Process Review Panel. At the December 13, 2007 hearing Acting Chair Grant Wilson presided. Other board members present included Jim Dahl, Geri Meyer and Pete Pelletier. David McCalip of Wilford & Geske was present representing GMAC Mortgage LLC the owner of the property. Also present for the owner was Claude Worrell of RMAX who would market the property on behalf of GMAC Mortgage LLC. Casey Rush, owner of the property at 3455 Elliot Ave. S., was also present. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 3445 Elliot Avenue S. is a duplex in the Powderhorn Park neighborhood. The 2.2 story house was built in 1892. The building is 2,178 square feet and sits on a 4,958 square foot

lot. Each unit has two bedrooms and one bathroom. There is a two car detached garage which is in poor condition.

2. The property located at 3445 Elliot Avenue S. was condemned on September 6, 2006 for being a boarded building. There are 21 outstanding housing violations (before a code compliance inspection was completed), including repair screens, repair garage, repair roof overhang, paint exterior trim, repair or replace foundation, repair interior surfaces, repair ceilings, repair cabinets and counters, repair or replace ventilation, repair plumbing, repair smoke detectors and get rid of roaches.

3. As the building has been vacant for over one year the building has lost its non-conforming rights to be a duplex. The lot size does not allow the property to be used as a duplex and without a variance the property could only be rehabilitated to be used as a single family house.

4. The Assessor rates the overall building condition as fair but finds that the building is uninhabitable.

5. The Inspections Division of the City of Minneapolis determined that the property at 3445 Elliot 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; 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.

6. 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 \$185,000 to \$206,900 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 \$163,400. The taxable value of the property is \$95,000 (2007) and \$170,000 (2006). The Assessor rates the property as fair but uninhabitable. The property was reviewed and exhibited no historical value.

b. Taxes on the property are current and special assessments totaling \$1,533 were levied for 2006 and \$2,470 for 2007. There is a \$80.00 water bill.

c. The Powderhorn Park Area Community Council and the owners within 350 feet of 3445 Elliot Avenue S. were mailed a request for a community impact statement. The Department of Inspections received 22 in return, all but one

recommended demolition. Neighbors commented that the property has had a negative impact on the neighborhood. One neighbor remarked, "It's very important to most of the residents on Elliot Ave. to fix up and maintain our property. The sight of this house leaves us feeling hopeless. The property should be demolished, the sooner the better. It's an embarrassment to all of us, especially when family relatives come for a visit. A real downer." Another wrote, "My wife and I have seriously considered selling our house rather than deal with such an eyesore which is also a haven for nefarious activity." Another wrote, "This burned out, water damaged, mold infested, boarded up mess indicates that the city and neighborhood doesn't care. In turn, run down structures like this (and unfortunately, Powderhorn has more than a few) act as a "welcome" invitation to other negligent home owners and low-life renters."

d. There are 3,350 housing units in the Powderhorn Park neighborhood, 162 are vacant, for a vacancy rate of approximately 4.5%. Of approximately 714 houses on the City's Vacant Building Registration, 22 are in the Powderhorn Park neighborhood.

7. Scott Ledoux has owned the property at 3445 Elliot Avenue S since 1993. On November 12, 2003 Scott LeDoux and Sayphonh LeDoux received a mortgage of 192,000.00 from Mortgage Electronic Registration Systems, Inc. (MERS) and RBMG, Inc.

8. In 2007 the property went into foreclosure and a sheriff's sale was held on May 25, 2007 where MERS and RBMG secured the property with a bid of \$120,000.00, with the redemption period expiring on November 21, 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 21, 2007 to Scott LeDoux; Mortgage Electronic Registration Systems Inc ; Northwest Mortgage Inc. and RBMG Inc.

10. David McCalip of Wilford & Geske Law Firm contacted the City of Minneapolis in May of 2007 after the time period for appealing the Directors Order to Demolish had expired. After a period of time a decision was made to allow the appeal to go forward and Mr. McCalip filed an appeal on October 5, 2007. A hearing was scheduled for November 8, 2007.

11. On November 8, 2007 neighborhood residents testified to the negative impact the property has had in their neighborhood. The hearing was continued to December 13, 2007 to allow a Code Compliance Inspection to be completed.

12. A Code Compliance Inspection was completed on November 28, 2007 and the orders were sent to David McCalip on December 3, 2007.

13. Claude Worrell from Remax testified that he had received a bid to rehabilitate with a range of \$160,000 to \$170,000 with an after-sale market for the finished duplex at \$225,000 to \$250,000. Mr. Worrell stated that the hope was to rehabilitate the property as a duplex and that is where the value of the property was.

14. Kasey Rush, a neighborhood resident, who owns the property at 3455 Elliot Ave. S. testified that the neighborhood is full of decaying homes and that the neighborhood has too many rental properties and not enough single family homes and that she would oppose any request for a variance to allow 3445 Elliot to remain a duplex.

CONCLUSIONS

1. The building located at 3445 Elliot 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 3445 Elliot Avenue S. 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.

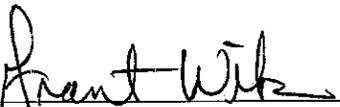
3. The building located at 3445 Elliot Avenue S. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after 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 3445 Elliot 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 demolition of the building is appropriate. The building has been condemned for being a boarded building since September 6, 2006. The building has been vacant for over a year and therefore has lost its nonconforming rights to remain a duplex, in addition the lot size of the

building would prohibit the property from remaining a duplex. The neighborhood does not need additional rental property and would be better served if the property was a single family home but the value of the property would be less as a single family home. The property continues and will continue to have a negative impact on the neighborhood in its current condition.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 3445 Elliot Avenue S., Minneapolis, Minnesota be upheld.



Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel