

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 1800 31st Street E.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on January 9, 2009 and April 9, 2009, in City Council Chambers located in Minneapolis City Hall. Burt Osborne, chair, presided at both hearings, other board members present for the January 8, 2009, hearing included Patrick Todd, Bryan Tyner and Elfric Porte. Other board members present for the April 9, 2009 hearing included Bryan Tyner and Geri Meyer. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Tom Deegan and Brian Young represented the Inspections Division. David Bassekle, owner of 1800 31st Street E, was present for both hearings as was Mr. Francois Ngono, the previous owner who purchased the property for Mr. Bassekle. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 1800 31st Street E. is a single family dwelling in the Powderhorn Park neighborhood. This 2-story dwelling was build in 1900. The building is 1,025 square feet and the building sits on a 1,924 square foot lot.

2. The property located at 1800 31st Street E. is in disrepair. A Code Compliance Inspection was conducted in 2007. It was determined in that inspection that an engineer's report was necessary before permits could be acquired and work could begin. The orders resulting

from the Code Compliance Inspection include, but are not limited to, the following: Install water heater, replace toilet, properly pipe bathtub and basin, repair all damaged or disconnected ductwork, verify safety of furnace, repair/replace exterior wall, repair/replace deteriorating roof overhang, paint trim, install/repair window locks, repair/replace deteriorating windows, install storm windows and screens, repair/replace cabinets and counters, repair/replace flooring, repair/refinish ceilings, remove all cracked or peeling paint or wallpaper, provide handrails, provide egress windows in all areas required by code, columns must be evaluated by structural engineer, building footings and foundations must be evaluated by structural engineer.

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 1800 31st Street E. 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 \$43,285.00 to \$127,915.25 based on the MEANS square footage estimate. The assessed value of the property in 2008 was \$95,000; the 2009 assessed value is \$75,000.
- b. The CPED staff appraiser determined the after-rehab market value of the property to be \$125,000.
- c. The Preservation and Design Team staff conducted a historic review of the property finding that demolition is okay.
- d. The East Phillips Improvement Coalition and property owners within 350 feet of 1800 31st Street E. were mailed a request for a community impact statement. The Department of Inspections received 16 in return, 15 of which were received by fax from Francois Construction. 15 state that the property has had a positive impact on the community, while another states that the property has had no impact. All state that the property should be rehabbed.

e. The vacant housing rate in the Powderhorn Park Neighborhood is around 4.5%. Of the 859 houses on the city's Vacant Building Registration, 22 are in the Powderhorn Park Neighborhood, a neighborhood of approximately 3,512 housing units.

6. On October 24, 2006, the property located at 1800 31st Street E. was condemned for being a boarded building, and on November 29, 2006 it was placed on the city's Vacant Building Registry.

7. On January 23, 2007, a Code Compliance Inspection was conducted with the resulting work orders being sent to Garth Johnson of Realty House, the person who had ordered the Code Compliance Inspection. No permits were pulled to complete the repairs ordered in the Code Compliance Inspection.

8. On June 29, 2007, Francois Ngono purchased the property located at 1800 31st Street E. from Federal Home Loan Mortgage Corporation

9. On October 23, 2008, a Minneapolis Housing Inspector discovered unpermitted work at the property located at 1800 31st Street E.

10. On October 24, 2008, the building located at 1800 31st Street E. was boarded due to the illegal occupancy of a condemned building.

11. 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 Francois Ngono the listed owner and taxpayer of the property located at 1800 31st Street E.

10. On November 26, 2008, Francois Ngono filed an appeal of the Director's Order to Demolish stating that he had purchased the property on behalf of David Bassekle in order to

rehabilitate the property so that Mr. Bassekle could live there. He stated that he was aware that there were code compliance orders on the property but planned to bring the property up to code.

11. At the January 8, 2009, hearing Mr. Bassekle appeared with Mr. Ngonu and claimed that he was purchasing the property located at 1800 31st Street E. from Mr. Ngonu. The matter was continued for Mr. Bassekle to have a new Code Compliance Inspection completed due to the two year time lapse since the original Code Compliance Inspection and to allow Mr. Bassekle, a chance to meet with the Department of Inspection and determine if a restoration agreement was feasible. The matter was then continued to April 9, 2009.

12. At the April 9, 2009, hearing Mr. Ngonu claimed that he purchased the property without knowing that it had been condemned, which contradicted his statement in his appeal where he indicated that he knew that there were code compliance orders on the property when he purchased it.

13. Neither Mr. Ngonu nor Mr. Bassekle, have submitted a reasonable plan to rehab the property located at 1800 31st Street E. including a showing of financial wherewithal to complete all the necessary repairs. An acceptable engineer's report required by the original Code Compliance Inspection and by the updated Code Compliance Inspection has been submitted. The engineer's report originally submitted stated that completion of the relevant work was required to have oversight by the engineer that wrote it. That did not happen. The owner stated that he did the work without the engineer's oversight. A second engineer's report was required to be submitted to verify that the work the owner did in fact meet the first report's intent. The second report submitted, however, addressed a completely different issue and was not accepted by Construction Code Services staff.

CONCLUSIONS

1. The building located at 1800 31st Street E. 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 1800 31st Street E. 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.

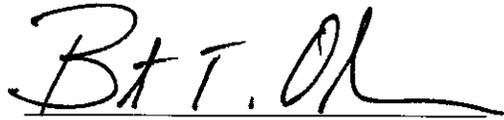
3. The building located at 1800 31st Street E. meets the definition of a nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after 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 1800 31st Street E. 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. All work done at the property has been done without permits and without any oversight with regards to any valid engineer's report as required by both Code Compliance Inspections. At this point any work that has been completed at the property can not be ensured to have been done in a safe and correct manner. The owner(s) have not submitted a workable plan, including the necessary financing, to rehabilitate the property in a manner to bring the property up to code.

RECOMMENDATION

That the Director of Inspections' Order to Raze the building located at 1800 31st Street E. Minneapolis, Minnesota, be upheld.

A handwritten signature in black ink, appearing to read "B.T. O.", with a long horizontal flourish extending to the right.

Burt Osborne
Chair,
Nuisance Condition Process Review Panel