

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

**In the matter of the Appeal of
Director's Order To
Demolish the Property
Located at 2440 16th Avenue S.
Minneapolis, Minnesota.**

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

This matter came on for hearing before the Nuisance Condition Process Review Panel on December 13, 2007 in City Council Chambers located in Minneapolis City Hall. Grant Wilson presided. Other board members present included Jim Dahl, Geri Meyer and Pete Pelletier. Assistant City Attorney Lee C. Wolf was present as *ex officio* counsel to the board. Wayne Murphy represented the Inspections Division. Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke, L.L.P. was present representing the property owner Specialized Loan Servicing, L.L.C. Based upon the Board's consideration of the entire record, the Board makes the following:

FINDINGS OF FACT

1. 2440 16th Avenue S. is a four unit building in the East Phillips neighborhood. The building sits on a 42 x 123 foot regularly shaped lot and is zoned R2B. One of the units is a single bedroom unit while the remaining three are two bedroom units.
2. The property located at 2440 16th Avenue S. was posted with a letter of intent to condemn on June 6, 2007 for being a boarded building and was condemned on August 23, 2007 for being a boarded building.
3. The Assessor rates the overall building condition as average minus.
4. The Inspections Division of the City of Minneapolis determined that the property at 2440 16th 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.*

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 \$113,000 to \$132,200 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 \$250,000. The taxable value of the property is

\$369,500 (2007) and \$382,800 (2008). The Assessor rates the property as average-minus. The property was reviewed and exhibited no historical value.

b. Taxes on the property are current, there is a water bill of \$2764.71 owing and the water was shut off in May 2007 for non-payment.

c. The East Phillips Community Council and the owners within 350 feet of 2440 16th Avenue S. were mailed a request for a community impact statement. The Department of Inspections received two in return, one recommended demolition and one recommended repair/renovate. One commented that the property has had a negative impact on the neighborhood, and one commented that it had no impact on the neighborhood.

d. In 2000, the greater Phillips neighborhood had 6,734 housing units; 6,333 were occupied and 401 were vacant. There were 1,366 owner occupied units and 4,967 renter-occupied units. The vacant housing rate was 12.28% in 1990 and it dropped to 3.03% in 2000.

6. Adrian J. DeBoom obtained a mortgage from New Century Mortgage Company on March 30, 2005. He defaulted on the mortgage. Because of an error in the legal description, the foreclosure could not be commenced. While the legal description error was being corrected, Hennepin County initiated a forfeiture sale of the property because of unpaid taxes. Specialized Loan Servicing L.L.C. purchased the property from Hennepin County on July 24, 2007. The Hennepin County Auditor required that four conditions be met for the sale to be approved: (1) the applicant intends to foreclose, (2) the applicant intends to seek an expedited foreclosure with a redemption period of five weeks, (3) the applicant will assign a property manager, and (4) the applicant is willing to discuss sale of the property to CEPED. Specialized Loan Servicing

believes that they have met all four conditions. The County Auditor also required the appellant to complete a Code Compliance Inspection by January 24, 2008. The Code Compliance Inspection has not occurred but the appellant is in the process of setting up the inspection.

7. Taking into account the criteria listed in § 249.40(1) a notice of the Director's Order to Demolish was mailed on October 2, 2007 to Adrian J. Deboom; Specialized Loan Servicing L.L.C.; and New Century Mortgage Company.

8. Kristine Spiegelberg of Shapiro, Nordmeyer & Zielke appealed the Director's Order to Demolish on October 23, 2007 and a hearing was set for December 13, 2007.

9. On December 13, 2007 hearing the Department of Inspections, through Wayne Murphy, indicated that their recommendation for the property was now for it to be rehabilitated rather than demolished. Kristine Spiegelberg indicated that her client was in agreement with the recommendation for rehabilitation.

CONCLUSIONS

1. The building located at 2440 16th 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 2440 16th 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. Pursuant to M.C.O. § 249.40 *Abatement of nuisance condition*, The Director of Inspection's recommendation to rehabilitate the building located at 2440 16th 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 rehabilitation of the building is appropriate. The building has been condemned for being a boarded building since August of 2007. The building has been vacant for 5 months. If the building is rehabilitated it will no longer have a negative impact on the neighborhood.

RECOMMENDATION

That the Director of Inspections' Order to Rehabilitate the building located at 2440 16th Avenue S., Minneapolis, Minnesota be upheld.

Grant Wilson
Acting Chair,
Nuisance Condition Process Review Panel