

# Staff Summary Report



Hearing Officer Hearing Date: 02/21/12

Agenda Item Number: 6

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Loew Property located at 1148 West 12<sup>th</sup> Street.

**DOCUMENT NAME:** 20120221cdsl05 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **LOEW PROPERTY (PL120021 /ABT12005 /CE113418)** (Shawn Daffara, Inspector; William Loew, property owner) located at 1148 West 12<sup>th</sup> Street in the R1-6, Single Family Residential District.

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)

**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

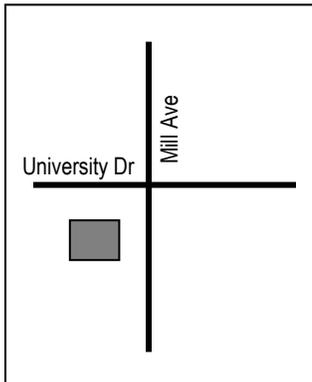
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

**FISCAL NOTE:** \$663.00 for abatement request, for deteriorated landscaping, dead tree, inoperable vehicle, junk & debris.

**RECOMMENDATION:** **Staff – Approval of Abatement Proceedings**

**ADDITIONAL INFO:**



Code Compliance is requesting approval to abate the Loew Property located at 1148 West 12<sup>th</sup> Street in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Staff requests the approval of abatement of the following nuisance items under Complaint CE113418: deteriorated landscaping, dead tree, inoperable vehicle, junk & debris.

Due to the history of recidivism of the property owner and several months of attempts to have the site remediated by the property owner, staff is requesting a 180 day open abatement to prevent repeated property neglect and neighborhood decline.

**PAGES:**

1. List of Attachments
2. Comments; History & Facts/Description

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-11. Code Compliance Report & Photographs

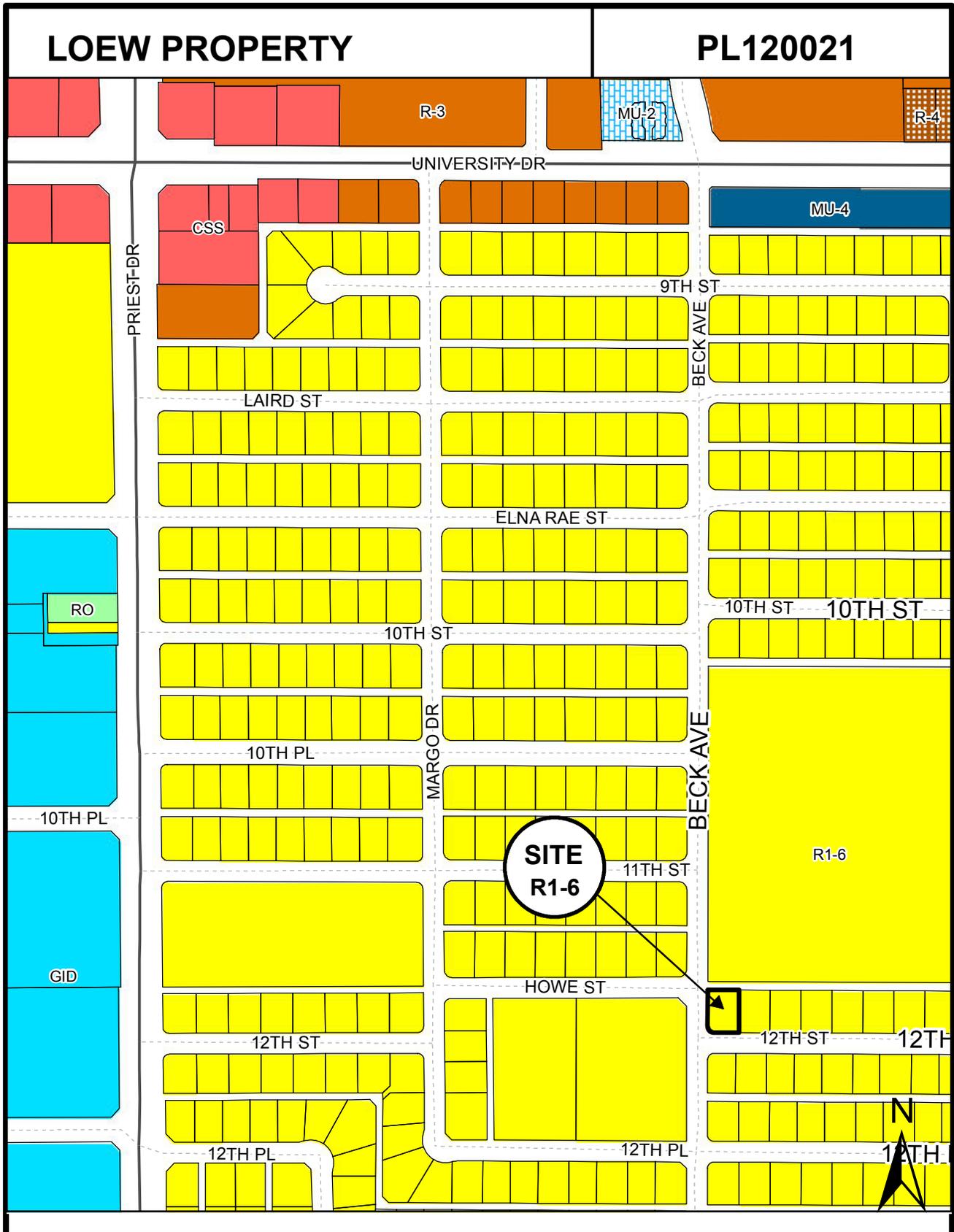
**COMMENTS:**

Code Compliance is requesting approval to abate the Loew Property located at 1148 West 12<sup>th</sup> Street in the R1-6, Single Family Residential District. This case was initiated 10/11 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners regarding violations of the Tempe City Code.

Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code. Due to the history of recidivism of the property owner and several months of attempts to have the site remediated by the property owner, staff is requesting a 180 day open abatement to prevent repeated property neglect and neighborhood decline.

**HISTORY & FACTS:**

The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.



**Location Map**



**LOEW PROPERTY (PL120021)**

**DATE:** 01/24/2012  
**TO:** Michael Spencer, Senior Code Inspector  
**FROM:** Shawn Daffara, Code Inspector II  
**SUBJECT:** Request to Abate Nuisance and Zoning Violations

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**LOCATION:** 1148 W. 12<sup>TH</sup> St. Tempe, AZ 85281

**LEGAL:** Book 124, Map 77, Parcel 107, as recorded with the Maricopa County Assessor

**OWNER:** WILLIAM LOEW  
1148 W. 12<sup>TH</sup> ST  
TEMPE, AZ 85281

**CE113418-FINDINGS:**

10/3/11 The Neighborhood Enhancement Department received a complaint for the above property for deteriorated landscaping, dead trees and an inoperable vehicle. This was a repeated violation from 7/15/11 case.

10/06/11 Inspected the property; yard is in a deteriorated state with a high weeds, dead tree in front and back yards. White truck under the carport has rotted flat tires, vehicle has expired plates and is inoperable.

10/31/11 White truck has been tarped down to carport slab. No change in the dead trees or weeds on site.

11/14/11 No new changes with dead trees or weed being removed. White truck no longer tarped, back in violation

12/02/11 Weeds have been cut down and removed. No change in dead trees, white truck remains without a cover and in violation.

1/13/12 No changes on site. No changes to dead trees, white vehicle remains uncovered, weeds back on the property. Property posted with Notice to Abate.

**COMPLAINT HISTORY:**

CE080555	01/25/08	Complaint for deteriorated landscape, high grass and weeds.
CE084710	06/24/08	Complaint for deteriorated landscape, junk/debris, litter in carport.

CE100110	01/20/10	Complaint for high grass and weeds and inoperable vehicle
CE102675	07/27/10	Complaint for deteriorated landscape, high grass and weeds.
CE111646	05/06/11	Complaint for inoperable vehicles and deteriorated landscape.
CE112425	07/15/11	Complaint for inoperable vehicles

**RECOMMENDATIONS:**

I recommend an abatement of the nuisance violation be done at the property of 1148 W. 12<sup>TH</sup> St. due to William Loew's failure to come into compliance with Tempe City Codes. Mr. Loew has been given ample time in previous cases to come into compliance and maintain the property. There has been no indication in Mr. Loew's actions that he plans on coming into compliance. I request approval for a 6 month 180 day Standing Abatement to remove the over height grass and weeds, dead trees and inoperable vehicle from this property, due to the past history of code violations and owners lack of response in correcting these violations.

Respectfully submitted,

Shawn Daffara

ACTION TAKEN:

NAME

DATE:

SUBMIT  
[Signature]  
1-24-12



COMMUNITY DEVELOPMENT DEPARTMENT  
CODE COMPLIANCE  
FINAL CORRECTION NOTICE

10-17-2011

LOEW, WILLIAM MCKAY  
1148 W 12TH ST  
TEMPE AZ 85281

Case#: CE113418  
Site Address: 1148 W 12TH ST

**SITE REINSPECTION ON OR AFTER: 10/31/2011**

This is a notice to inform you that this site was inspected on 10/06/2011 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.3	An inoperable vehicle or parts thereof outside of or under a roof area not enclosed
CC 21-3.b.8	Dead trees or parts including stumps

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION**

1. The white truck is inoperable and has expired tags. Please remove the vehicle from the property.
2. Please remove junk and debris from the carport area
3. Please remove the dead trees on site. One tree in front yard and one tree in backyard are dead and need to be cut down and removed.

**This will be Final Notice. If violations are not corrected a citation and fine will be issued.**

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

**Shawn Daffara**  
**Code Inspector II**

**Direct: 480-858-2284**  
**Code Compliance: (480)350-8372**  
**Email: shawn\_daffara@tempe.gov**

**Civil and Criminal Penalties**

City Code Section 21-3, subsections (b) 1-8, 15 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$170 per violation, 2nd occurrence \$270 per violation, 3rd occurrence \$370 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$270 per violation, 2nd occurrence \$470 per violation, 3rd occurrence \$670 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$370 per violation, 2nd occurrence \$670 per violation, 3rd occurrence \$970 per violation. | Section 21-25: \$1020 per violation plus an additional \$100 for each month after the date of the original violation until compliance occurs. | Section 21-4 (B) Habitual Offender: 1st occurrence \$520 in addition to other fines, 2nd occurrence \$1020 in addition to other fines, 3rd occurrence, \$1520 in addition to other fines. | Zoning and Development Code: 1st occurrence \$140 per violation, 2nd occurrence \$390 per violation, 3rd occurrence \$790 per violation | The city has authority to abate the violation should the owner neglect, fail or refuse to correct the violation within 30 days and to assess a lien against the property for the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



COMMUNITY DEVELOPMENT DEPARTMENT  
CODE COMPLIANCE  
FINAL CORRECTION NOTICE-2

10-31-2011

LOEW, WILLIAM MCKAY  
1148 W 12TH ST  
TEMPE, AZ 85281

Case#: CE113418  
Site Address: 1148 W 12TH ST

**SITE REINSPECTION ON OR AFTER: 11/14/2011**

This is a notice to inform you that this site was inspected on 10/06/11, 10/31/11 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.3	An inoperable vehicle or parts thereof outside of or under a roof area not enclosed
CC 21-3.b.8	Dead trees or parts including stumps

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION**

1. The white truck is inoperable and has expired tags. Please remove the vehicle from the property. Complete.
2. Please remove junk and debris from the carport area
3. Please remove the dead trees on site. One tree in front yard and one tree in backyard are dead and need to be cut down and removed.

**This will be Final Notice. If violations are not corrected a citation and fine will be issued.**

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

**Shawn Daffara**  
**Code Inspector II**

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City of Tempe  
P. O. Box 5002  
Tempe, AZ 85280  
www.tempe.gov  
(480) 350-8372  
(480) 858-2231 (fax)

Neighborhood Enhancement Division

## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: January 12, 2012

TO: WILLIAM MCKAY LOEW  
1148 W. 12<sup>TH</sup> ST  
TEMPE, AZ 85281

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations CE113418 on the following described property:

**LEGAL: Book 124, Map 77, Parcel 107, as recorded with the Maricopa County Assessor.**

**LOCATION: 1148 W. 12<sup>TH</sup> St. Tempe, AZ 85281**

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of February 21, 2012, at 1:30 pm. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal or repair of:

- REMOVAL OF WHITE PICKUP TRUCK UNDER CARPORT THAT IS INOPERABLE AND UNREGISTERED AND IN VIOLATION OF TEMPE CITY CODE 21-3-B-3.
- REMOVAL OF ALL OVER HEIGHT GRASS AND WEEDS, DEAD TREES ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-8.
- REMOVAL OF ALL LITTER, JUNK/DEBRIS ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-1.

As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violations. If the violations have not been corrected within thirty days, our office will proceed with the abatement process.

Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be \$663.00. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual cost of abatement or three hundred (\$300) dollars, whichever is greater, for expenses incurred by the city for abatement procedures, and the cost of recording liens and releases will be charged. The recorded lien may bear interest at the legal rate for judgments in the State of Arizona.

Administrative charges and the cost of recording liens and releases shall become a lien on the property whether or not the public nuisance is abated by the City.

If you have questions regarding this matter, please contact our office at (480) 350-8372.

Code Inspector: Shawn Daffara  
Phone Number: 480-858-2284  
E-mail: Shawn\_Daffara@Tempe.gov

JACK HARRINGTON  
3831 W AVALON  
PHOENIX, AZ. 85019  
TEL: (602) 446-2630  
FAX: (602) 347-5487  
EMAIL: JACKHBOARDUPS@YAHOO.COM

THE FOLLOWING DOCUMENT IS FOR:

NAME: SHAWN DAFFARA  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS  0  PAGE(S)

DATE: 1-6-12

**PROPOSAL**

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE  
UNDER CONTRACT # TO8-092-02

ADDRESS: 1148 W 12 ST TEMPE, AZ.

1. TOW VEHICLE FROM PROPERTY	\$135.00
2. HAUL AWAY DEBRIS FROM CARPORT AND SIDE YARDS	528.00
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TOTAL COST FOR JOB	\$663.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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