

# Staff Summary Report



Board of Adjustment Hearing Date: 2/22/12

Agenda Item Number: 3

**SUBJECT:** Appeal (**ABA12001**) of the January 3, 2012 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Kamper Property located at 1087 East Minton Drive for an open period of 180 days.

**DOCUMENT NAME:** 20120222cdsl02 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Appeal (**ABA12001**) of the January 3, 2012 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **KAMPER PROPERTY (PL110426 /ABT11047 /CE113682)** (Jack Scofield, Inspector; Naida Kamper, property owner) located at 1087 East Minton Drive in the R-2, Multi-Family Residential District for an open period of 180 days.

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

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

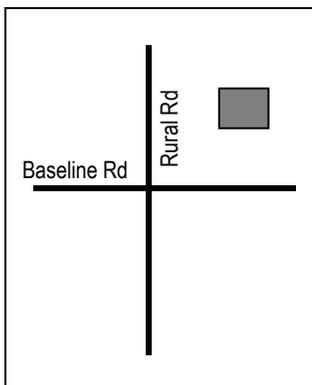
**LEGAL REVIEW BY:** N/A

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

**FISCAL NOTE:** \$330.00 for abatement request, deteriorated landscape and trash and debris

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

**ADDITIONAL INFO:**



The property owner is appealing January 3, 2012 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code.

The Code Compliance is requesting approval to abate the Kamper Property located at 1087 East Minton Drive in the R-2, Multi-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 CE113682: deteriorated landscape, trash and 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. Letter of Appeal
- 4-11. Code Compliance Report & Photographs

**COMMENTS:**

The Hearing officer approved a request by Code Compliance to abate the Kamper Property located at 1087 East Minton Drive in the R-2, Multi-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:**

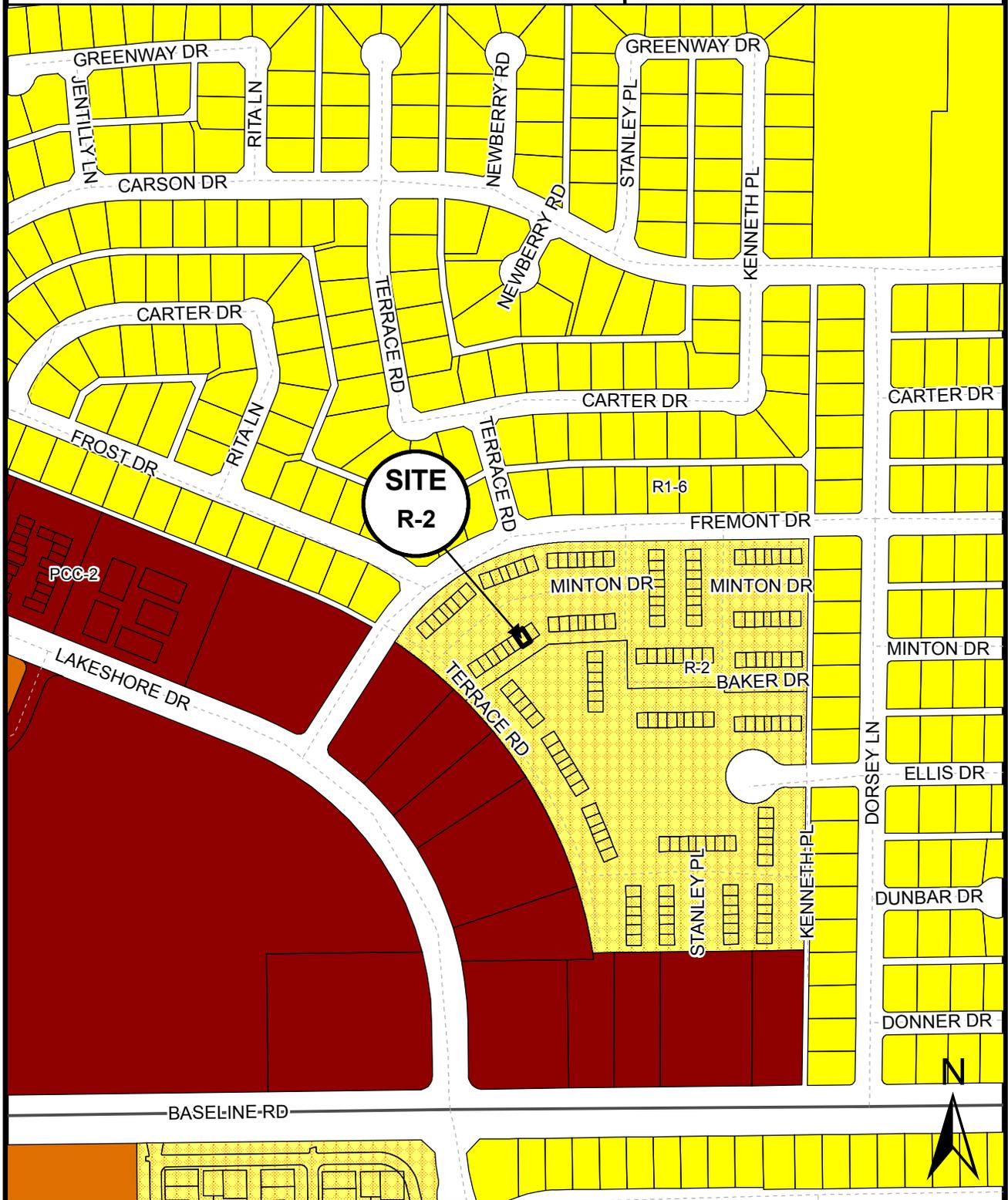
The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

**PUBLIC INPUT:**

Staff received a call from a resident of the subdivision and a member of the Homeowners Association. She expressed support for the approval of the abatement.

**KAMPER PROPERTY**

**PL110426**



**Location Map**



**KAMPER PROPERTY (PL110426)**

January 17, 2012

Board of Adjustment  
City of Tempe  
Community Development  
Planning  
HAND-DELIVERY  
34 East Fifth Street  
Tempe, Arizona 85280

RE: Kamper Property Abatement APPEAL  
1087 East Minton Drive  
PL110426/ABT11047.CE113682

Dear Adjustment Board:

This letter serves as formal written appeal regarding the hearing held in the above-referenced case.

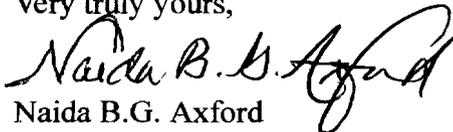
The appeal is based upon the issues raised to the Hearing Officer, the use of illegal trespass, presentation of materials outside of the report, and multiple State and Federal Constitutional violations. Additionally, the individual investigating did not file accurate and complete facts in the report, refused to look into the applicable issues particular to multi-family housing, and was unwilling to evaluate City easement versus "public property" issues under the City Code.

Additionally, there has been a mean-spirited approach to this case.

Every effort was made to inform the hearing officer of the issues, her duties to the overall representations of "Community" by the City, and the impact upon owners and residents of the 157 Unit Development in which these matters arise.

Upon receipt of the DVD the issues will be fully addressed. Steve Abrahamson was notified about the delay in delivery of the DVD, and granted additional time for further documentation and briefing of the facts and law regarding this matter.

Very truly yours,

  
Naida B.G. Axford

cc: Sherri Lesser, Sr. Planner, Letter dated January 5, 2012  
Steve Abrahamson

**DATE:** November 30, 2011  
**TO:** Jeff Tamulevich, Code Compliance Administrator  
**FROM:** Jack Scofield, Code Inspector  
**SUBJECT:** CE113682, Kamper Property Abatement

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**LOCATION:** 1087 E MINTON DR TEMPE, AZ 85282  
**LEGAL:** PARK PREMIERE TOWNHOUSES UNIT TWO  
**PARCEL:** 133-38-363  
**OWNER:** KAMPER NAIDA B/AXFORD NAIDA BETH  
1087 E MINTON DR  
TEMPE, AZ 85282

**FINDINGS:**

10/27/2011 The Code Compliance Division received a complaint concerning deteriorated landscape and trash in the rear yard.

10/28/2011 Inspected property and found over height grass and weeds in the rear yard and a large amount of trash and debris in the rear yard. Notice to comply mailed to property owner and also posted to property.

11/14/2011 Final notice to comply posted to property due to no current owner information.

11/30/2011 Posted notice of intent to abate to property.

**RECOMMENDATIONS:**

I recommend an abatement of the nuisance violations at the property at 1087 E. Minton Dr., due to property owner's failure to bring property into compliance with Tempe City Codes 21-3.B.1 and 21-3.B.8. Ms. Kamper has been given ample time to come into compliance and maintain the property. It appears that the property has been abandoned by the property owner. There has been no indication that the property owner will bring the property into compliance. The property represents a health hazard and an eyesore to the community.

Without the intervention of abatement the property will continue to deteriorate. I therefore make a request to the City of Tempe Community Development Hearing Officer for authorization to abate this public nuisance in accordance with section 21-53 of the Tempe City Code and authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Respectfully submitted,

Jack Scofield  
Code Inspector II

ACTION TAKEN: SUBMIT  
NAME Jack Scofield  
DATE: 11.30.11



**COMMUNITY DEVELOPMENT DEPARTMENT  
CODE COMPLIANCE  
CORRECTION NOTICE**

10/28/11

KAMPER NAIDA B/AXFORD NAIDA BETH  
1087 E MINTON DR  
TEMPE, AZ 85282

Case#: CE113682

Site Address: 1087 E MINTON DR TEMPE, AZ 85282

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

This is a notice to inform you that this site was inspected on 10/28/11 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.

**VIOLATION SECTION:**

**Violation of City of Tempe Code 21-3-B-1**

Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the county health officer or this code or any other ordinance of the city.

**Violation of City of Tempe Code 21-3-B-8**

Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

**Violation of City of Tempe Code 21-4-A-2-C**

Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or slum-like appearance.

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:**

- 1. REMOVE TRASH, DEBRIS, BOXES, AND OTHER MISC HOUSEHOLD ITEMS FROM THE REAR YARD.**
- 2. CUT OVER HEIGHT GRASS AND WEEDS FROM THE REAR YARD.**
- 3. REPAIR OR REPLACE AREAS OF THE ROOF THAT HAVE CURLED, ROTTED, OR MISSING ROOFING MATERIAL.**

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

**Jack Scofield  
Code Inspector II  
E-Mail**

**Direct: 480-350-8967  
Code Compliance: 480-350-8372  
jack\_scofield@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**

11/14/11

KAMPER NAIDA B/AXFORD NAIDA BETH  
1087 E MINTON DR  
TEMPE, AZ 85282

Case#: CE113682

Site Address: 1087 E MINTON DR TEMPE, AZ 85282

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**CORRECTIVE ACTION MUST BE COMPLETED OR A \$510.00 CITATION WILL BE ISSUED.**

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

**Jack Scofield**  
**Code Inspector II**  
**E-Mail**

**Direct: 480-350-8967**  
**Code Compliance: 480-350-8372**  
**jack\_scofield@tempe.gov**

**Civil and Criminal Penalties**

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CASE # CE113407



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 11/30/11

**KAMPER NAIDA B/AXFORD NAIDA BETH  
1087 E MINTON DR  
TEMPE, AZ 85282**

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

**Legal:** PARK PREMIERE TOWNHOUSES UNIT TWO  
**Location:** 1087 E MINTON DR TEMPE, AZ 85282  
**Parcel:** 133-38-363

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This office will submit this complaint to the Community Development Abatement Hearing Officer to be placed on the Hearing Officer agenda of **01/03/2012**. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal and repair of:

- 1. REMOVE TRASH, DEBRIS, BOXES, AND OTHER MISC HOUSEHOLD ITEMS FROM THE REAR YARD.**
- 2. CUT OVER HEIGHT GRASS AND WEEDS FROM THE REAR YARD.**

As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violation. 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 **\$330.00**. 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.**

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**Code Inspector: Jack Scofield**

**Phone Number: (480)350-8967**

**E-mail: jack\_scofield@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: JACK SCOFIELD  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS  0  PAGE(S)

DATE: 11-28-11

**PROPOSAL**

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

ADDRESS: 1087 E MINTON TEMPE, AZ.

1. REMOVE WEEDS & DEBRIS FROM REAR YARD 15 MH @ 22/H	\$330.00
1. POLICE OFFICER 5 HOUR	290.00
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TOTAL COST FOR JOB	\$620.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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