

Staff Summary Report



Hearing Officer Hearing Date: 7/19/11

Agenda Item Number: 7

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the BAC Home Loans Servicing Property located at 120 East Balboa Drive.

DOCUMENT NAME: 20110719cdsl06 **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 **BAC HOME LOANS SERVICING PROPERTY (PL110234 /ABT11021 /CE111152)** (Brandy Zedlar, Inspector; BAC Home Loans Servicing, property owner) located at 120 East Balboa Drive 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)

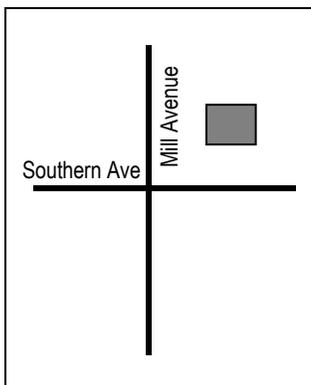
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: \$ 693.00 for abatement request, including deteriorated landscape and green pool.

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

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the BAC Home Loans Servicing Property located at 120 East Balboa Drive 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 CE111152: deteriorated landscape and green pool..

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 BAC Home Loans Servicing Property located at 120 East Balboa Drive in the R1-6, Single Family Residential District. This case was initiated 04/11 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners regarding violations of the Tempe City Code for deteriorated landscape and green pool

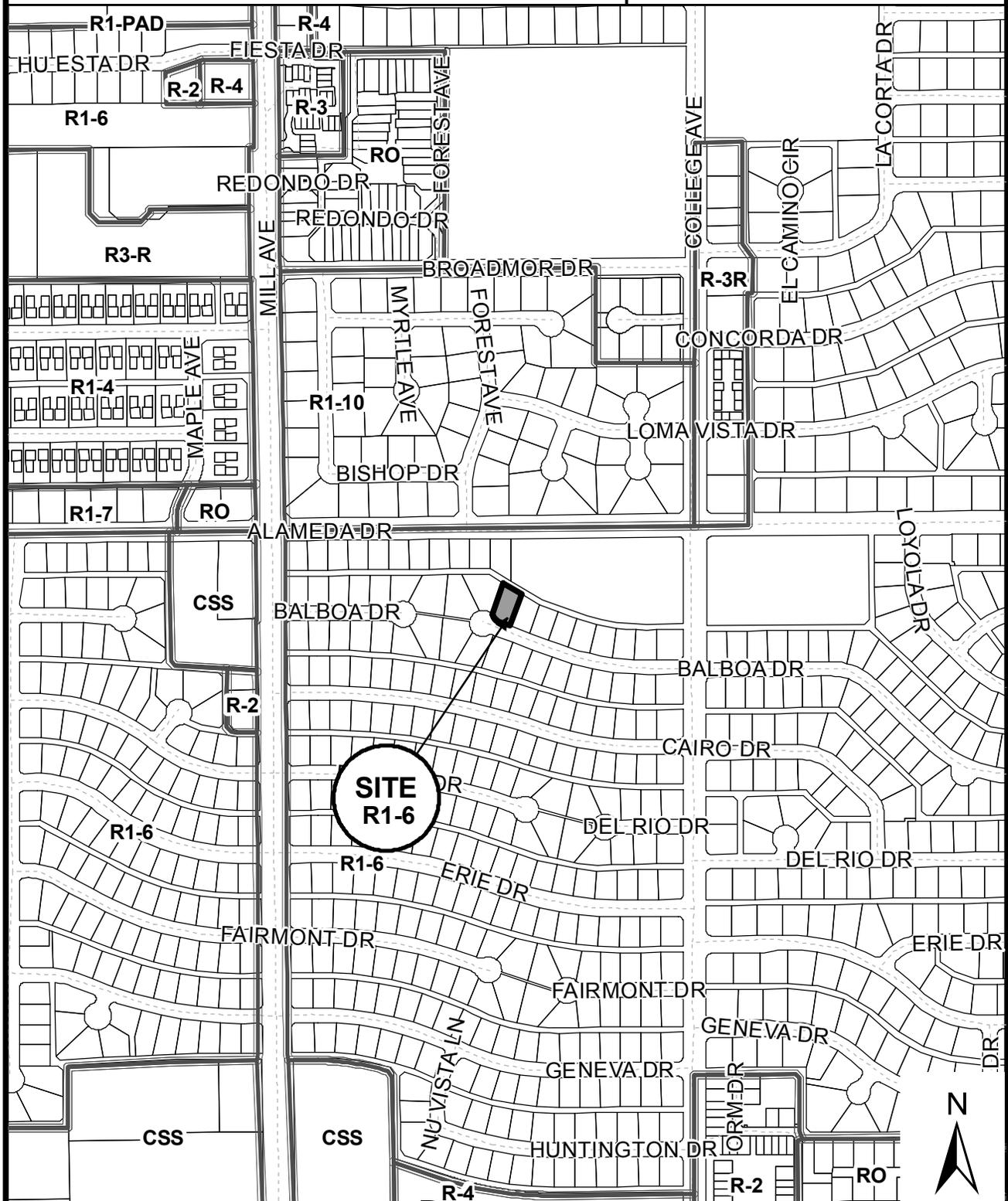
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code. Due to the history of recidivism 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.

BAC HOME LOANS SERVICING PROPERTY

PL110234



Location Map



BAC HOME LOANS SERVICING PROPERTY (PL110234)

DATE: 6/16/11
TO: Michael Spencer, Sr. Code Inspector
FROM: Brandy Zedlar
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE111152

LOCATION: 120 E. Balboa Dr., Tempe, AZ 85282
LEGAL: Parcel #133-43-068, as recorded with the Maricopa County Assessor
OWNER: BAC Home Loans Servicing – Bank of America
400 Country Wide Way SV-35
Simi Valley, CA 93065

FINDINGS:

4/08/11 – The Neighborhood Enhancement Division received a complaint on the above property concerning deteriorated landscape and a green pool.

5/04/11 - The property was inspected and found to have a green pool, over height grass/weeds and junk and debris in the front and back yard. After further research, it was found that the property is owned by BAC Home Loans (Bank of America). A 30 day final notice to comply was mailed to the bank.

6/16/11 – The property was inspected with no change in its condition. Code Compliance filed for an Abatement Hearing.

PROPERTY HISTORY:

- 5 complaints for deteriorated landscape were received between 2004 and 2011.

RECOMMENDATIONS:

I recommend the approval for abatement at 120 E. Balboa Dr., which is owned BAC Home Loans (Bank of America). Bank of America has been given ample time and opportunities to bring the property into compliance and has failed to take corrective action. Since this property has been foreclosed, I am requesting approval for continuous abatements in the next 180 days if deemed necessary. There has been no indication from Bank of America that they plan to correct and maintain the property.

Respectfully submitted,
Brandy Zedlar

ACTION TAKEN: Referred to Hearing Officer

NAME: Michael Spencer

DATE: 6/16/11



QUICK LINKS ...

Home Contacts *Parcel Search:



Advanced Search Options

*Market Overview *Residential Similar Property Search

No Parcel Number? Use Advanced Search Options.

*(A parcel number is needed to use these Features)

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Property Information

[View GIS Maps](#)

Parcel #: 133-43-068
MCR #: 08913
Property Address: 120 E BALBOA DR
 TEMPE 85282
Property Description: NU-VISTA 2
Section Township Range: 27 1N 4E
Associated Parcel:

Subdivision Name: NU-VISTA 2 LOTS 64-125 TR A
Lot #: 68
School Dist: TEMPE SCHOOL DISTRICT
Local Jurisdiction: TEMPE
[Tax District FAQs](#)

Owner Information

[View Tax Information](#)

Owner: CAIN MATTHEW D
In Care Of:
Mailing Address: 10815 N SUNDOWN DR
 SCOTTSDALE AZ 85260 USA
Deed #: 090478165
Deed Date: 5/28/2009

Sales Price: \$300,000
Sales Month/Year: 4/2006

Valuation Information

[View Similar Parcels](#)

Tax Year:	2012	2011	2010
Full Cash Value (FCV):	\$120,100	\$151,000	\$176,700
Limited Property Value (LPV):	\$120,100	\$151,000	\$176,700
Notice: The values displayed on this page may not reflect constitutional or statutory adjustments.			
Legal Class:	3	3	3
Assessment Ratio:	10.0%	10.0%	10.0%
Assessed FCV:	\$12,010	\$15,100	\$17,670
Assessed LPV:	\$12,010	\$15,100	\$17,670
Property Use Code:	0131	0131	0131
Tax Area Code:	031600	031600	031600

Additional Component Information (for this parcel)

[Valuation](#) [Characteristics](#) [Commercial Property Overview](#)

New Search Helpful Information:

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Disclaimer

The data contained in this database is deemed reliable but not guaranteed. This information should be used for informational use only and does not constitute a legal document for the description of these properties. Every effort has been made to insure the accuracy of this data; however, this material may be slightly dated which would have an impact on its accuracy. The Maricopa County Assessor's Office disclaims any responsibility or liability for any direct or indirect damages resulting from the use of this data.

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Maricopa County Assessor || 301 W. Jefferson St. || Phoenix, AZ 85003
 602-506-3406

Unofficial Document

First American Title
RECORDING REQUESTED BY:
RECONTRUST COMPANY, N.A.
2380 Performance Dr, TX2-985-07-03
Richardson, TX 75082
WHEN RECORDED MAIL TO:
BAC HOME LOANS SERVICING, LP
400 COUNTRYWIDE WAY SV-35
SIMI VALLEY, CA 93065
Attn: FORECLOSURE DEPT
TS No. 10-0040690
Title Order No. 4409656
APN No. 133-43-068

NOTICE OF TRUSTEE'S SALE ARIZONA

The following legally described trust property will be sold, pursuant to the power of sale under that certain Deed of Trust Recorded on 05/22/2006, as Instrument Number 20060691517, Book N/A, Page N/A, in the records of Maricopa County, Arizona, at public auction to the highest bidder: In the Courtyard, by the Main Entrance to the Superior Court Building, 201 West Jefferson Phoenix, AZ on 06/30/2010 at 02:00 PM of said day.

LOT 68, NU-VISTA UNIT TWO, ACCORDING TO BOOK 89 OF MAPS, PAGE 13, RECORDS OF MARICOPA COUNTY, ARIZONA APN No. 133-43-068

The Deed of Trust and/or Beneficiary provide the following purported property location:
120 EAST BALBOA DRIVE, TEMPE, Maricopa County, AZ 85282-3509

Said sale will be made for cash (payable at time of sale), but without covenant or warranty, express or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of the note secured by said Deed of Trust, which includes interest thereon as provided in said note, advances, if any under the terms of said Deed of Trust, interest on advances, if any, fees, charges and expenses of the Trustee and of the trust created by said Deed of Trust. The original sum of the note is \$195,000.00. Trustee will accept only cash or cashier's check for reinstatement or price bid payment. Reinstatement payment must be paid before five o'clock P.M on the last day other than a Saturday or legal holiday before the date of the sale. The Purchaser at the sale, other than the beneficiary to the extent of his credit bid, shall pay the price no later than five o'clock P.M. of the following day, other than a Saturday or legal holiday.

Name and Address of Original Trustor: DAVID H CAIN, and MATTHEW D CAIN, 120 EAST BALBOA DRIVE, TEMPE, AZ 85282-3509

Name and Address of Current Trustee: RECONTRUST COMPANY, N.A., 2380 Performance Dr, TX2-985-07-03 Richardson, TX 75082 FOR INFORMATION/SALE INFORMATION CALL: (800) 281-8219

Name and Address of Current Beneficiary: BANK OF NEW YORK, 400 COUNTRYWIDE WAY SV-35, , SIMI VALLEY, CA 93065 PHONE: (800) 669-6650

RECONTRUST COMPANY, N.A. IS THE CURRENT TRUSTEE. RECONTRUST COMPANY, N.A. QUALIFIES AS A TRUSTEE OF THE TRUST DEED UNDER ARIZONA REVISED STATUTES SECTION 33-803, SUBSECTION A. 5., BECAUSE IT IS A NATIONAL ASSOCIATION REGULATED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY("OCC")

DATED: March 22, 2010

RECONTRUST COMPANY, N.A.
As Trustee

State of: Texas)
County of: Tarrant)

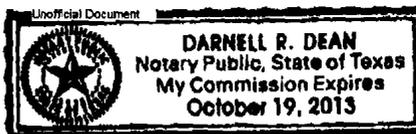
BY: Darla Sproles
Darla Sproles, Team Member

On 3-22-2010 before me Darnell R Dean, personally appeared Darla Sproles, know to me (or proved to me on the oath of TV D) or through TV D to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Witness my hand and official seal.

Darnell R Dean

Notary Public's Signature



THIS FIRM IS ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THE DEBT SET FORTH ON THIS NOTICE WILL BE ASSUMED TO BE VALID UNLESS YOU DISPUTE THE DEBT BY PROVIDING THIS OFFICE WITH A WRITTEN NOTICE OF YOUR DISPUTE WITHIN 30 DAYS OF YOUR RECEIPT OF THIS NOTICE, SETTING FORTH THE BASIS OF YOUR DISPUTE. IF YOU DISPUTE THE DEBT IN WRITING WITHIN 30 DAYS, WE WILL OBTAIN AND MAIL VERIFICATION OF THE DEBT TO YOU. IF THE CREDITOR IDENTIFIED IN THIS NOTICE IS DIFFERENT THAN YOUR ORIGINAL CREDITOR, WE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF YOU REQUEST THIS INFORMATION IN WRITING WITHIN 30 DAYS.



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

5-04-2011

BAC HOME LOANS SERVICING
ATTN: FORECLOSURE DEPT
400 COUNTRYWIDE WAY SV-35
SIMI VALLEY, CA 93065

Case#: CE111152
Site Address: 120 E BALBOA DR

SITE REINSPECTION ON OR AFTER: 6/03/11

This is a notice to inform you that this site was inspected on **5/04/11** 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:

Sec. 21-3. Enumerated violations.

(b) A nuisance includes any one or more of the following conditions:

Violation of the Tempe City Code, Chapter 21-3-b-16

Any swimming pool areas that are not enclosed by a fence of at least five (5) feet in height and equipped with self-closing, self-latching gate(s), or padlocked at all times. Any openings in the fencing shall be of a size to prohibit a spherical object four (4) inches in diameter from passing through or under the fence or gate; or any swimming pool, architectural pool or spa that creates a health hazard, harbors insect infestation or presents a deteriorated appearance;

Violation of the Tempe City Code, Chapter 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.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

1. Please remove the weeds/grass growing within the gravel landscape in the front and side yard.
2. Please remove the algae/dirt from the swimming pool in the back yard.

*****If the above required corrections are not satisfied by 6/3/11, the City of Tempe will abate placing a lien against the property for the clean-up costs.**

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

Brandy Zedlar
Code Inspector II
email

Direct: 480-350-8623
Code Compliance: 480-350-8372
brandy_zedlar@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 \$250 per violation, 3rd occurrence \$350 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$250 per violation, 2nd occurrence \$450 per violation, 3rd occurrence \$650 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$350 per violation, 2nd occurrence \$650 per violation, 3rd occurrence \$950 per violation. | Section 21-25: \$1000 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 \$500 in addition to other fines, 2nd occurrence \$1000 in addition to other fines, 3rd occurrence, \$1500 in addition to other fines. | Zoning and Development Code: 1st occurrence \$120 per violation, 2nd occurrence \$370 per violation, 3rd occurrence \$770 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.



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

Code Compliance Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: June 16, 2011

TO: BAC HOME LOANS SERVICING, LP
ATTN: FORECLOSURE DEPT
400 COUNTRYWIDE WAY SV-35
SIMI VALLEY, CA 93065

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

LEGAL: Parcel # 133-43-068, as recorded with the Maricopa County Assessor.

LOCATION 120 E. Balboa Dr., Tempe, AZ 85282

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of July 19, 2011. 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: Those items constituting a violation of TCC 21-3-b-8 and TCC 21-3-b-16 which would include the following: landscape clean-up in the front and back yard and draining the pool.

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 \$693.00. 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 Enforcement Officer: Brandy Zedlar

Phone Number 480-350-8372

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: BRANDY ZEDLAR
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 6-9-11 REVISED

PROPOSAL

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

ADDRESS: 120 E BALBOA TEMPE, AZ.

1. MOW AND REMOVE WEEDS & DEBRIS FROM FRONT& BACK YARDS 24 M.H. @ \$22.00/HR.	\$528.00
2. 1- LOADS @ \$40/LOAD	40.00
3. DRAIN POOL	125.00

TOTAL COST FOR JOB	\$693.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON



