

Staff Summary Report



Hearing Officer Hearing Date: 4/19/11

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Bank of America Property located at 2 West Erie Drive.

DOCUMENT NAME: 20110419cdsl01 **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 **BANK OF AMERICA PROPERTY (PL110114/ABT11007/CE110099)** (Brandy Zedlar, Inspector; Bank of America, property owner) located at 2 West Erie 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)

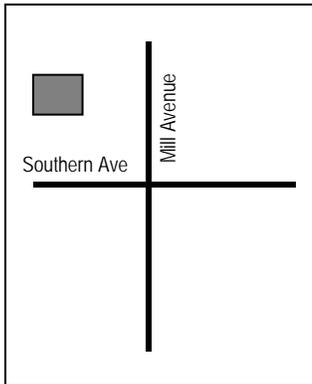
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: \$2528.00 for abatement request

RECOMMENDATION: Staff – Approval of Abatement Proceedings

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Bank of America Property located at 2 West Erie 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 CE110099: for landscape clean-up and removal of junk 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 area 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 Bank of America Property located at 2 West Erie Drive in the R1-6, Single Family Residential District. This case was initiated on 01/18/2011 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Bank of America, regarding violations of the Tempe City Code for landscape clean-up and removal of junk and debris.

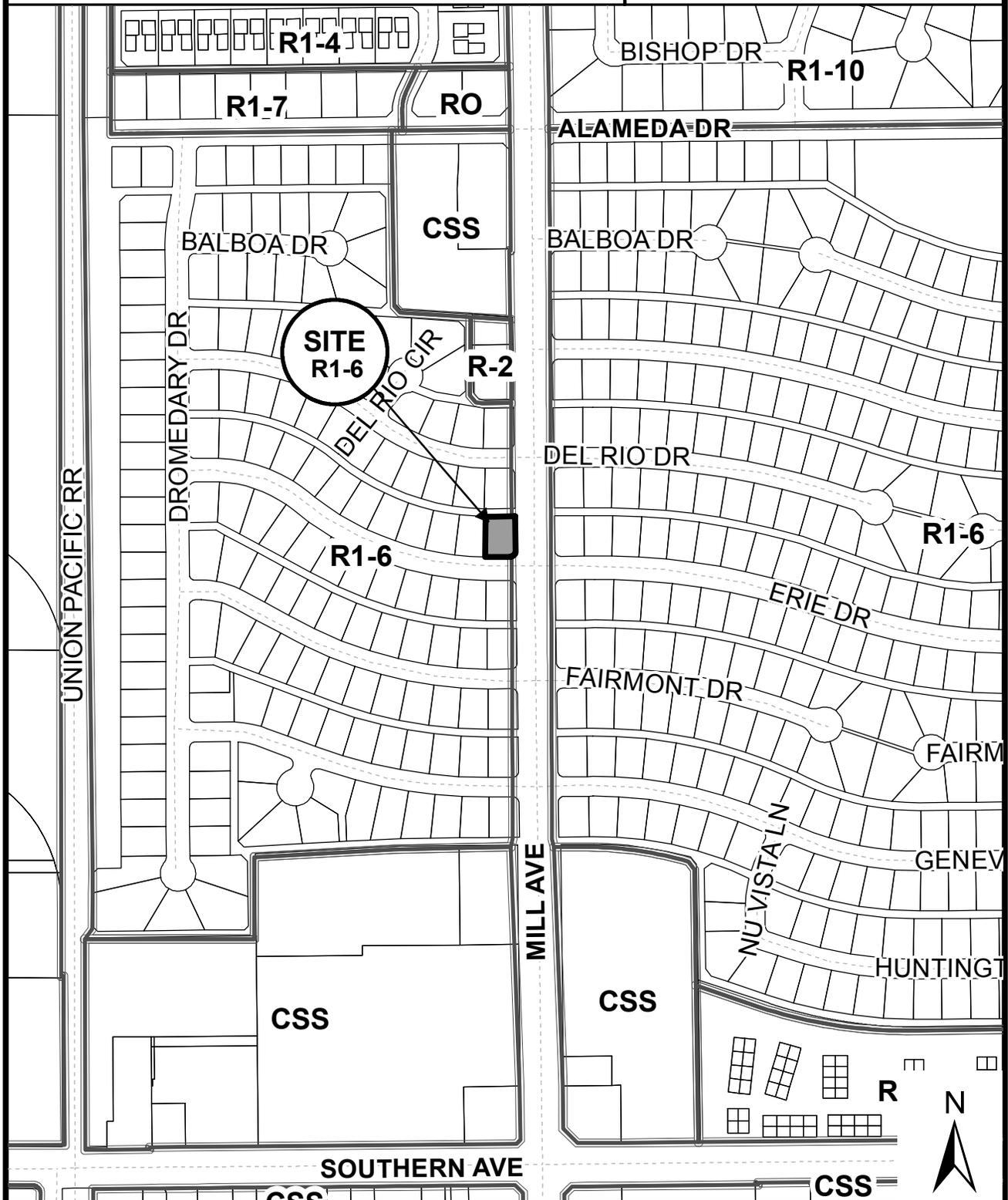
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code. Due to the history of recidivism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

HISTORY & FACTS:

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

BANK OF AMERICA PROPERTY

PL110114



Location Map



BANK OF AMERICA PROPERTY (PL110114)

DATE: 3/15/11
TO: Michael Spencer, Sr. Code Inspector
FROM: Brandy Zedlar
SUBJECT: Request to Authorize for Abatement-- Reference Complaint #CE110099

LOCATION: 2 W Erie Dr., Tempe, AZ 85282
LEGAL: Parcel #133-50-058, 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:

1/18/11 – The Neighborhood Enhancement Division received a complaint on the above property concerning deteriorated landscape and trash.

1/24/11 - The property was inspected and found to have three dead trees, over height grass/weeds and trash in the driveway. After further research, it was found that the property is owned by BAC Home Loans (Bank of America). Notice to comply was mailed to the bank.

2/28/11 – An email was received from BAC Home Loans stating the residence is still occupied and the violations could not be corrected at this time.

3/15/11 – The property was inspected with no change in its condition. Code Compliance filed for an Abatement Hearing.

PROPERTY HISTORY:

- 7 complaints for deteriorated landscape were received between 2005 and 2010.

RECOMMENDATIONS:

I recommend the approval for abatement at 2 W. Erie 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: 3/15/11



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FIRST CORRECTION NOTICE

1-24-2011

BAC HOME LOANS SERVICING LP
400 COUNTRY WIDE WAY SV-35
SIMI VALLEY, CA 93065

Case#: CE110099
Site Address: 2 W ERIE DR

SITE REINSPECTION ON OR AFTER: 2/25/11

This is a notice to inform you that this site was inspected on 1/21/11 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-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 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 trim the over height weeds/grass in the front and side yard.
2. Please remove the junk & debris from the front and side yard.
3. Please remove all dead trees from the front and back yard.

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.

Unofficial Document

RECORDING REQUESTED BY:
RECONTRUST COMPANY
AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENTS TO:
BAC Home Loans Servicing, LP
400 COUNTRYWIDE WAY SV-35
SIMI VALLEY, CA 93065

TS No. 10-0080102
TITLE ORDER#: 100414747AZGTI

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CORPORATION ASSIGNMENT OF DEED OF TRUST ARIZONA

FOR VALUE RECEIVED, THE UNDERSIGNED HEREBY GRANTS, ASSIGNS AND TRANSFERS TO:

BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP

ALL BENEFICIAL INTEREST UNDER THAT CERTAIN DEED OF TRUST DATED 10/12/2007, EXECUTED BY: ROBERT GILES AKA ROBERT ELLIS GILES, TRUSTOR; TO RECONTRUST COMPANY, N.A., TRUSTEE AND RECORDED AS INSTRUMENT NO. 20071133921 ON 10/18/2007, IN BOOK N/A, PAGE N/A, OF OFFICIAL RECORDS IN THE COUNTY RECORDER'S OFFICE OF MARICOPA COUNTY, IN THE STATE OF ARIZONA.

SEE ATTACHED EXHIBIT A - LEGAL DESCRIPTION

TOGETHER WITH THE NOTE OR NOTES THEREIN DESCRIBED OR REFERRED TO, THE MONEY DUE AND TO BECOME DUE THEREON WITH INTEREST, AND ALL RIGHTS ACCRUED OR TO ACCRUE UNDER SAID DEED OF TRUST/MORTGAGE.

DATED: 7/15/2010

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

State of: Texas) BY: CJB
County of: Tarrant) Carmelia Boone, Assistant Secretary

On 7/15/2010 before me Tanesa Sharon Frazier, personally appeared Carmelia Boone, Assistant Secretary, know to me (or proved to me on the oath of _____ or through TX DL) 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.

Tanesa Sharon Frazier
Notary Public's Signature



TS # 10-0080102

PUB# 3651975

LOAN TYPE: CONV

"EXHIBIT A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS: LOT 316, OF NU-VISTA UNIT FIVE, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 93 OF MAPS, PAGE 17.

Unofficial Document

Form legaldesc (07/01)



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: March 15, 2011

TO: BAC HOME LOANS SERVICING – BANK OF AMERICA
400 COUNTRY WIDE 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 # 133-50-058, as recorded with the Maricopa County Assessor.

LOCATION 2 W. Erie 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 April 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-1 which would include the following: landscape clean-up in the front and back yard and removal of all junk & debris.

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 \$2528.00. 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
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE 3-9-2011

PROPOSAL

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

ADDRESS: 2 WEST ERIE DR. TEMPE, AZ.

1. CLEAN YARDS OF GRASS AND DEBRIS 24M.H. @ \$22.00/HR.	\$528.00
2. CUT DOWN AND REMOVE 3 TREES FROM PROPERTY	\$1,700.00
3. TRIM OLEANDERS TO EDGE OF SIDEWALK & HAUL DEBRIS	<u>\$300.00</u>
TOTAL COST FOR ABOVE ITEMS	\$2528.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON





