

# Staff Summary Report



Hearing Officer Hearing Date: June 22, 2010

Agenda Item Number: 15

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Department to abate public nuisance items at the Barton Property located at 3232 South Evergreen Road.

**DOCUMENT NAME:** 20100622dssl03 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **BARTON PROPERTY (PL100156/ABT10009/CE096257)** (Jody Benson, Inspector; Margaret Scalizi Barton, property owner) located at 3232 South Evergreen Road 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*

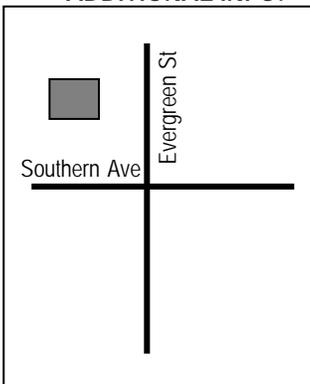
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

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

**ADDITIONAL INFO:**



Code Compliance is requesting approval to abate the Barton Property located at 3232 South Evergreen Road District in the R1-6, Single Family Residential District. The property is generally located north of Southern and east of the 101 Freeway. 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 CE096257: including draining pool; securing windows, doors and garage door; removing debris; maintaining the grass and removal of weeds.

**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-17. Neighborhood Enhancement Report

**COMMENTS:**

Code Compliance is requesting approval to abate the Barton Property located at 3232 South Evergreen Road in the R1-6, Single Family Residential District. This case was initiated on November 24, 2009 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Margaret Scalizi Barton, regarding violations of the Tempe City Code for a green pool, debris, weeds and unsecure property.

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

**HISTORY & FACTS:**

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

**BARTON PROPERTY**

**PL100156**



**Location Map**



**BARTON PROPERTY (PL100156)**

**DATE:** May 28, 2010  
**TO:** Dean Miller Sr. Code Inspector  
**FROM:** Jody Benson, Code Inspector  
**SUBJECT:** Request for Authorization to Abate Complaint CE096257

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**COMPLAINT:** CE096257

**LOCATION:** 3232 S Evergreen Road, Tempe, AZ 85282

**LEGAL:** LOT 20, TEMPE ROYAL PALMS UNIT EIGHT ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 126 OF MAPS, PAGE 50.

**OWNER:** Margaret Scalzi Barton  
3232 S Evergreen Rd  
Tempe, AZ 85282

Margaret Scalzi Barton  
1718 S. Longmore unit 78  
Mesa , AZ 85202

**FINDINGS:**

- 11/24/09 Received an anonymous complaint that the that property has deteriorated shingles, peeling paint, dead yard, 30 or so cats, crushed garage door , and possible green pool. Please call complainant (see people field).
- 01/5/10 City of Tempe Code Inspector Brett Barnes inspected the property and found the property to be in violation of having a deteriorated and broken garage door as well as a green swimming pool. The other reported violations did not exist at the time of inspection. A notice to comply was mailed to the homeowner.
- 01/6/10 City of Tempe Code Inspector Brett Barnes spoke to the property owner Margaret Barton and explained what the violations were and what corrections need to be made. Ms. Barton advised that she has filed and is going through bankrupt and foreclosure proceedings. Ms. Barton said she would know by the end of January when the bank will take possession of the property. Ms. Barton indicated she doesn't have the means to make the repairs or corrections to the property. Ms. Barton did

say she would try to get the green pool drained.

- 01/13/10 The notice to comply that was mailed to the property owner was returned in the mail with a forwarding address of 1718 S. Longmore unit 78 Mesa , AZ 85202 sending notice to the new address.
- 01/13/10 Received an additional complaint from web on this property. The new complaint was forwarded to the inspector and linked.
- 02/02/10 City of Tempe Code Inspector Brett Barnes inspected the property and found none of the violations had been corrected. City of Tempe Code Inspector Brett Barnes did not have any update from the property owner regarding the foreclosure proceedings. A final notice to comply was mailed to the homeowner.
- 03/5/10 Received an additional complaint of home being abandoned with broken garage door, possible unsecured home. Complainant claims there are 20 cats living in the home.
- 04/13/10 Received additional complaint of o/h grass or weeds, deteriorated landscaping, junk & debris
- 04/19/10 Received additional complaint of home being abandoned with broken garage door, possible unsecured home. Complainant claims there are 20 cats living in the home.
- 05/05/10 This case was reassigned to City of Tempe Code Inspector Jody Benson. I inspected the property and found a green pool, over height grass and weeds in the front and back yard, the back fence had to be secured closing up access to the pool with bailing wire, broken garage door, and junk and debris in the garage . Spoke to the complainant and he was able to get a number for a realtor that may know how to get in touch with the homeowner. The notice of trustee sale was found to have been canceled.
- 05/06/10 City of Tempe Code Inspector Jody Benson took photos spoke to the realtor on the phone he will see if he can find the number for the owner.
- 05/10/10 City of Tempe Code Inspector Jody Benson emailed City of Tempe authorized abatement contractor Jack Harrington to request an estimate to abate.
- 05/11/10 Received the abatement estimate from City of Tempe authorized abatement contractor Jack Harrington
- 05/17/10 Received an additional complaint of o/h weeds & unsecured home
- 05/20/10 City of Tempe Code Inspector Jody Benson found the front yard cut. All

other violations remain. City of Tempe Code Inspector Jody Benson posted and mailed notice of intent to abate.

- 05/20/10 City of Tempe Code Inspector Jody Benson received a telephone call from a neighbor that wished to remain anonymous. He stated he cut the front yard.
- 05/25/10 City of Tempe Code Inspector Jody Benson submitted project submittal for abatement.
- 05/26/10 City of Tempe Code Inspector Jody Benson took photos for the public hearing on 06/22/10.
- 05/28/10 City of Tempe Code Inspector Jody Benson completed the History and Fact and submitted them for the public hearing.

### **COMPLAINT HISTORY**

The following history reflects all valid complaints on this property since Margaret Scalzi Barton established ownership of 3232 S Evergreen Road September 30<sup>th</sup> 2004.

- CE052909 **May 2005 through June of 2005** Complaint for green pool. In compliance in just under two weeks. Brett Barnes was the inspector.
- CE074180 **July 2007 through August 2007** Complaint for dead tree limbs in the landscape. In compliance in just under two weeks. Brett Barnes was the inspector.

### **RECOMMENDATIONS:**

The property at 3232 S. Evergreen Road appears to be vacant and continues to be in violation of Tempe City Code for deteriorated pool, deteriorated garage door, unsecure vacant building, deteriorated landscape, and junk and debris. Though the home was being foreclosed it appears that proceeding has been canceled after the homeowner vacated the property. No other notice of trustee sale was ever recorded.

There have been 2 prior cases at the property for green pool and deteriorated landscapes. The property has been allowed to fall back into violation.

Without the intervention of abatement the property will continue to deteriorate. I therefore make a request to the City of Tempe Development Services 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.

Margaret Scalzi Barton is the listed legal owner of the residence, as recorded by the Maricopa County Assessor's Office.

Respectfully submitted,

Jody Benson #16559  
City of Tempe Code Inspector I/II

CASE # CE096257



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 05/20/2010

MARGARET SCALZI BARTON  
3232 S EVERGREEN RD  
TEMPE, AZ 85282

MARGARET SCALZI BARTON  
1718 S. LONGMORE UNIT 78  
MESA, AZ 85202

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

**Legal:** LOT 20, TEMPE ROYAL PALMS UNIT EIGHT ACCORDING TO THE PLAT OF RECORDIN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 126 OF MAPS, PAGE 50.

**Location:** 3232 S EVERGREEN RD, 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 **06/22/2010**. 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:

- **Secure all unsecure doors, windows, to include the garage door.**
- **Drain the deteriorated green pool.**
- **Cut all over height grass and weeds on the property.**
- **Removal of junk and 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 **\$1429.00**. 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: Jody Benson**

**Phone Number: (480)350-8671**

**E-mail: jody\_benson@tempe.gov**

CASE #CE096257



**City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances**

Mailed on Date: 1/6/10

Name MARGARET SCALZI BARTON  
Address 3232 S. EVERGREEN RD.  
City State TEMPE, AZ 85282

**NOTICE TO COMPLY**

This notice to comply is to inform you that on 1/5/10, the property located at 3232 S. Evergreen Road was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on **1/29/10** or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

**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 21-4-2**

For any residential property:

- F. Exterior doors, garage doors, door hardware and door frames not maintained in sound condition, or kept free from holes, breaks and cracks; or any exterior door incapable of functioning as intended by its design.

**Please take the following corrective action by 1/29/10**

**Required Correction(s):**

- PLEASE RESTORE THE SWIMMING POOL TO A CLEAN AND CLEAR CONDITION, FREE OF ALGAE AND DEBRIS.
- REPAIR AND OR REPLACE THE DETERIORATED BROKEN GARAGE DOOR.

*We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.*

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**Civil and Criminal Penalties**

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1<sup>st</sup> occurrence \$350 dollars per violation, 2<sup>nd</sup> occurrence \$650 dollars per violation, 3<sup>rd</sup> occurrence \$950 dollars per violation.

Section 21-4 (B), Habitual Offender: 1<sup>st</sup> occurrence \$500 dollars + sum of other fines, 2<sup>nd</sup> occurrence \$1000 dollars + sum of other fines, 3<sup>rd</sup> occurrence \$1,500 dollars + sum of other fines.

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 cost of abatement.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

Code Enforcement Inspector: BRETT BARNES

Phone Number 480-350-8658



**City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances**

Mailed on Date: 2/3/10

Name MARGARET SCALZI BARTON  
Address 1718 S. LONGMORE UNIT 78  
City State MESA, AZ 85202

**FINAL NOTICE TO COMPLY**

This notice to comply is to inform you that on 2/2/10, the property located at 3232 S. Evergreen Road was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on **3/1/10** or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

**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 21-4-2**

For any residential property:

- F. Exterior doors, garage doors, door hardware and door frames not maintained in sound condition, or kept free from holes, breaks and cracks; or any exterior door incapable of functioning as intended by its design.

**Please take the following corrective action by 3/1/10**

**Required Correction(s):**

- PLEASE RESTORE THE SWIMMING POOL TO A CLEAN AND CLEAR CONDITION, FREE OF ALGAE AND DEBRIS.
- REPAIR AND OR REPLACE THE DETERIORATED BROKEN GARAGE DOOR.

*We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.*

**Civil and Criminal Penalties**

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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 cost of abatement.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

Code Enforcement Inspector: BRETT BARNES

Phone Number 480-350-8658

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: JODY  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL PLUS   0   PAGE(S)

DATE: 5-11-2010                      TIME:        A.M.  12:30  P.M.

**PROPOSAL**

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

ADDRESS: 3232 S. EVERGREEN RD. TEMPE, AZ.

1. DRAIN POOL	\$125.00
2. SECURE OPEN WINDOWS AND DOORS ON N. SIDE & BACK OF PROPERTY - 6 SHEETS SECURE GARAGE DOOR	\$300.00
3. 3 LARGE LOADS TO DUMP- DEAD TREES ETC.	\$300.00
4. CUT GRASS & WEEDS IN FRONT & BACK YARDS 4 MEN 8 HRS EACH @ \$22./HR	\$704.00
TOTAL COST FOR ABOVE ITEMS	\$1429.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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