

Staff Summary Report



Hearing Officer Hearing Date: January 5, 2010

Agenda Item Number: 11

SUBJECT: Public hearing for a request by City of Tempe Code Compliance to abate public nuisance items at the **BEAUCHEMIN RESIDENCE** located at 1404 East Del Rio Drive.

DOCUMENT NAME: 20100105dsjls02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by City of Tempe Code Compliance to abate public nuisance items in violation of the Tempe City Code for the **BEAUCHEMIN RESIDENCE (PL090458/ABT09041/CE094348)** (Mary & A.J. Beauchemin, property owners) located at 1404 East Del Rio Drive in the R1-6, Single Family Residential District.

PREPARED BY: Julie Scofield, Code Compliance Inspector (480-350-8951)

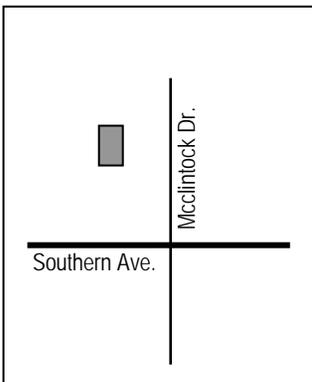
REVIEWED BY: Decima Sever, Development Services Liaison (480-350-8920)

A handwritten signature in black ink, appearing to read 'D. Sever'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

ADDITIONAL INFO: Code Compliance is requesting approval to abate the **BEAUCHEMIN RESIDENCE** located at 1404 East Del Rio Drive. The property is generally located north of Southern Avenue and west of McClintock Drive. 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 CE094348: unregistered vehicle.



PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-11. Neighborhood Enhancement Report

COMMENTS:

Code Compliance is requesting approval to abate the Beauchemin Residence at 1404 E. Del Rio Drive in the R1- 6 Single Family Residential District. This case was initiated on July 16, 2009 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners, A.J. and Mary Beauchemin, regarding violations of the Tempe City Code for deteriorated landscaping, outdoor storage, and an inoperable/unregistered vehicle.

A.J. and Mary Beauchemin have a significant history of violating Tempe City Codes with regards to an inoperable/unregistered vehicle, this being the sixth case since 2003. Mary Beauchemin has been issued four (4) civil citations, all for which she failed to pay or appear in court. No previous abatements have been conducted.

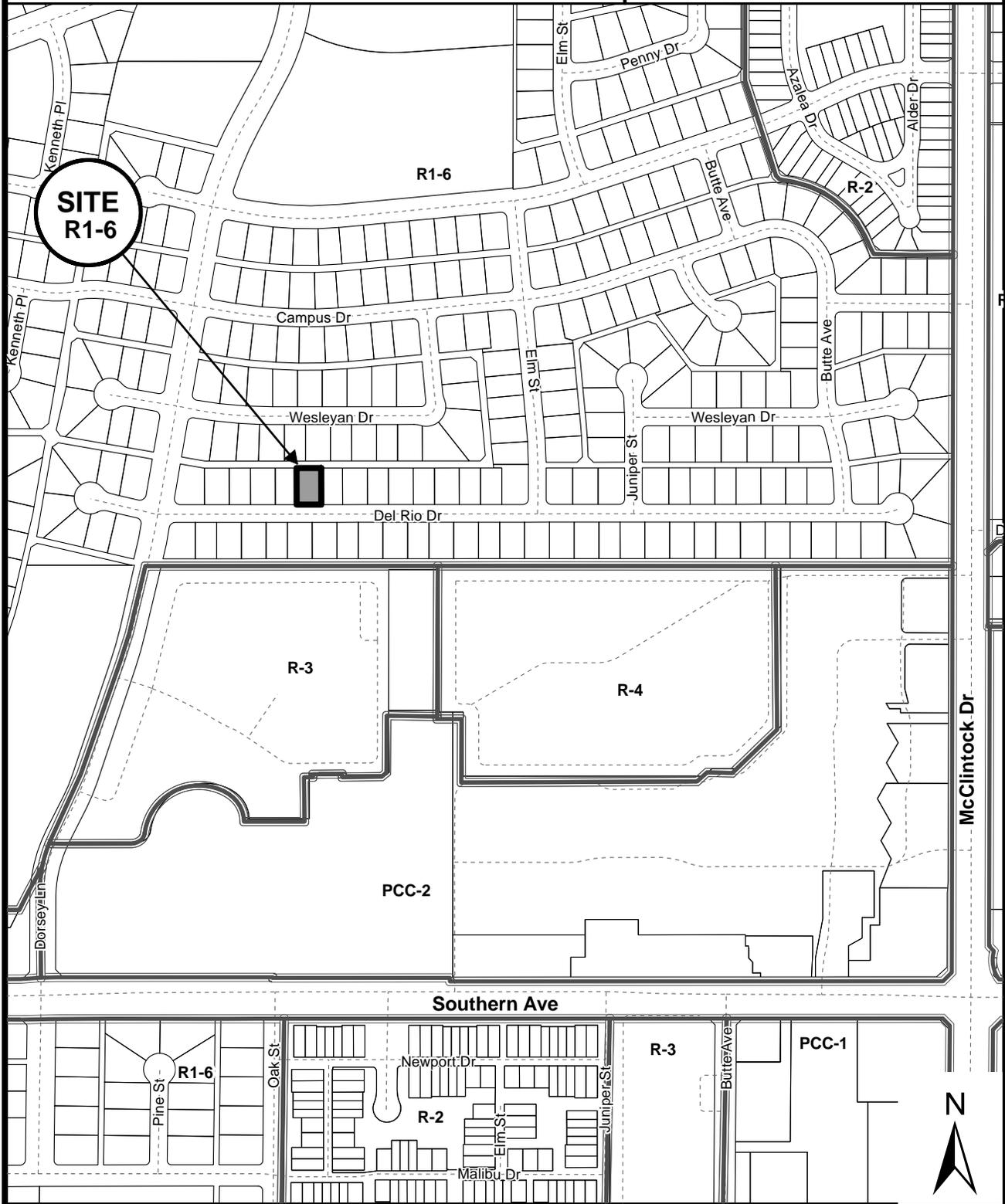
It is therefore requested that the City of Tempe Hearing Officer approve the abatement of this public nuisance in accordance with section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

BEAUCHEMIN RESIDENCE

PL090458



Location Map



BEAUCHEMIN RESIDENCE (PL090458)

DATE: 11/30/09

TO: Mike Spencer, Sr. Code Inspector

FROM: Julie Scofield

SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE094348

LOCATION: 1404 E. Del Rio Dr. Tempe, AZ 85282

LEGAL: Book 133, Map 33, Parcel 073, as recorded with the Maricopa County Assessor

OWNER: Mary & A.J. Beauchemin
1404 E. Del Rio Dr.
Tempe, AZ 85282

FINDINGS:

- 07/16/09 The Neighborhood Enhancement Department received a complaint on the above property for an unregistered vehicle.
- 0720/09 The property was inspected. Mailed notice to the owners for grass and weeds in gravel, over height grass in the front of the property, some outside storage, and an Oldsmobile with a unregistered license plate of (821KDX) parked on the west side of the property.
- 08/05/09 The property was re-inspected. The vehicle is still unregistered and other violations were corrected. A final notice was mailed.
- 09/28/09 The property was re-inspected. A citation (#1442658) was issued in the amount of \$150.00 for the unregistered vehicle. Pictures were taken.
- 10/19/09 The property was re-inspected. A second citation (#1442664) was issued in the amount of \$250.00 for the unregistered vehicle. Pictures were taken.
- 11/10/09 An estimate was requested from contractor Jack Harrington for the abatement of the unregistered vehicle.
- 11/10/09 The estimate was received for the abatement in the amount of \$285.00.
- 11/30/09 The application for the abatement was submitted.

RECOMMENDATIONS:

I recommend the approval for abatement at 1404 E. Del Rio Dr., which is owned by A.J. and Mary Beauchemin. The Beauchemins have been given ample time and opportunities to bring the property into compliance and has failed to take corrective action. The Beauchemins have also failed to appear or pay for either citation that was issued.

Respectfully submitted,
Julie Scofield

ACTION TAKEN: Submit
NAME Julie Scofield
DATE: 11-30-09

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: Julie
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL MEMORANDUM PLUS ____ PAGE(S)

DATE: 11-10-09 TIME: _____ A.M. _1:30_ P.M.

PROPOSAL

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

ADDRESS: 1404 E. Del Rio Dr. Tempe, AZ.

1. Remove unregistered vehicle from property (Oldsmobile Tornado	\$135.00
2. Police office for 3 hrs @ \$50.00/hr	<u>\$150.00</u>
Total	\$285.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON



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

Neighborhood Enhancement Department

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 11/30/09

TO:

**A.J. and Mary Beauchemin
1404 E. Del Rio 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: Book 133, Map 33 Parcel 073, as recorded with the Maricopa County Assessor.

**LOCATION: 1404 E. Del Rio 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 01/05/2010. We are requesting Hearing Officer Authorization to abate this public nuisance codes in accordance with Section 21-53 of the Tempe City Code by towing the unregistered Oldsmobile vehicle with license plate of (821KDX). TCC 21-3-B-3 which prohibits unregistered, inoperable vehicles to be out in the open of the front of the property.

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 \$285.00. 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: Julie Scofield

Phone Number 480-350-8951

CASE #CE094348



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

Mailed on Date: 7/21/09

**MARY/A.J. BEAUCHEMIN
1404 E. DEL RIO DR.
TEMPE, AZ 85282**

This notice to comply is to inform you that on 7/20/09, the property located at 1404 E. DEL RIO DR. 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 8/4/09 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).

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-3

Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:

- a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;
- b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;
- c. Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;
- d. Lawful commercial activities involving vehicles as allowed by the Zoning and Development Code; or
- e. Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

Inoperable vehicle means a vehicle that is physically incapable of its intended operation, or unable to be safely operated at that time, including but not limited to vehicles on blocks or similar devices, with a deflated tire or tires, or from which the engine, wheels or tires have been removed.

Vehicle means a machine propelled by power other than human power designed to travel along the ground, water or air to transport persons, property or machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, boat or aircraft.

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 by: 8/4/09

Required Correction(s):

1. PLEASE REMOVE AND OR DISCARD THE BUCKETS, WOOD, TRASH, AND ANY OTHER MISCELLANEOUS ITEMS IN THE FRONT OF THE PROPERTY.
2. PLEASE CUT ALL OVER HEIGHT GRASS AND OR WEEDS IN THE FRONT OF THE PROPERTY.
3. PLEASE COMPLETELY REMOVE ANY GRASS AND OR WEEDS IN THE GRAVEL AREAS OF THE FRONT OF THE PROPERTY. THIS INCLUDES UNDERNEATH THE VEHICLE ON THE WEST SIDE OF THE PROPERTY.
4. IN ORDER FOR VEHICLES TO BE LEFT OUT IN THE OPEN, THEY MUST BE REGISTERED AND APPEAR OPERABLE. PLEASE REGISTER AND DISPLAY CURRENT TAGS FOR THE OLDSMOBILE TORONADO WITH PLATE OF (821KDX).
5. IF THE VEHICLE CANNOT BE REGISTERED, PLEASE MOVE THE VEHICLE TO AN ENCLOSED AREA OR REMOVE FROM THE PROPERTY.

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

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

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

Section 21-4 (B), Habitual Offender: 1st occurrence \$500 dollars + sum of other fines, 2nd occurrence \$1000 dollars + sum of other fines, 3rd 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 Inspector: JULIE SCOFIELD

Phone Number: 480-350-8951

E-mail: JULIE_SCOFIELD@TEMPE.GOV

CASE #CE094348



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

Mailed on Date: 8/6/09

**MARY/A.J. BEAUCHEMIN
1404 E. DEL RIO DR.
TEMPE, AZ 85282**

This notice to comply is to inform you that on 8/5/09, the property located at 1404 E. DEL RIO DR. 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 8/20/09 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).

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