

Staff Summary Report



Hearing Officer Hearing Date: May 4, 2010

Agenda Item Number: 8

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Department to abate public nuisance items at the Benson Residence located at 4411 South McAllister Avenue.

DOCUMENT NAME: 20100504dsdk01 **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 **BENSON RESIDENCE (PL100095/ABT10005/CE100205)** (Brandy Zedlar, Inspector; Edwin Benson, property owner) located at 4411 South McAllister Avenue in the R1-6, Single Family Residential District.

PREPARED BY: Diana Kaminski, Senior Planner (480-858-2391)

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

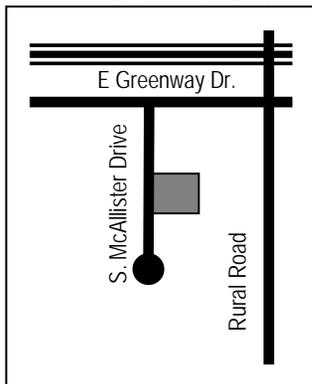
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of Abatement

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Benson Residence located at 4411 South McAllister Avenue in the R1-6, Single Family Residential District. The property is generally located south of the U.S. 60 freeway, west of Rural Road, and east of College Avenue. The property owner pled guilty to criminal charges for code violations had five complaints between 2001 and 2008. The property has not been maintained and staff has received another complaint regarding the condition of the property. 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 CE100205: for items in violation of Tempe City Codes 21-3-b-8, 21-3-b-16, 21-3-b-15 and 21-3-b-1 which include failure to maintain front, side and back yard landscape, junk and debris, a green pool and unsecured gates. Since the property has been abandoned, staff also requests approval for continuous abatements for the next 180 days as necessary for property maintenance and neighborhood preservation.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-13. Neighborhood Enhancement Report

COMMENTS:

Code Compliance is requesting approval to abate the Benson Residence located at 4411 South McAllister Avenue in the R1-6, Single Family Residential District. This case was initiated on February 2, 2010 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Edwin Benson, for an abandoned property with deteriorated landscape in the front, side and back yards, an unsecured green pool, missing roof shingles and an accumulation of junk and debris.

Mr. Benson has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to violations of the Tempe City Codes 21-3-b-8, 21-3-b-16, 21-3-b-15 and 21-3-b-1. Mr. Benson was issued criminal charges in June 2001, and pled guilty. He has received five prior complaints and one current complaint regarding the condition of this property.

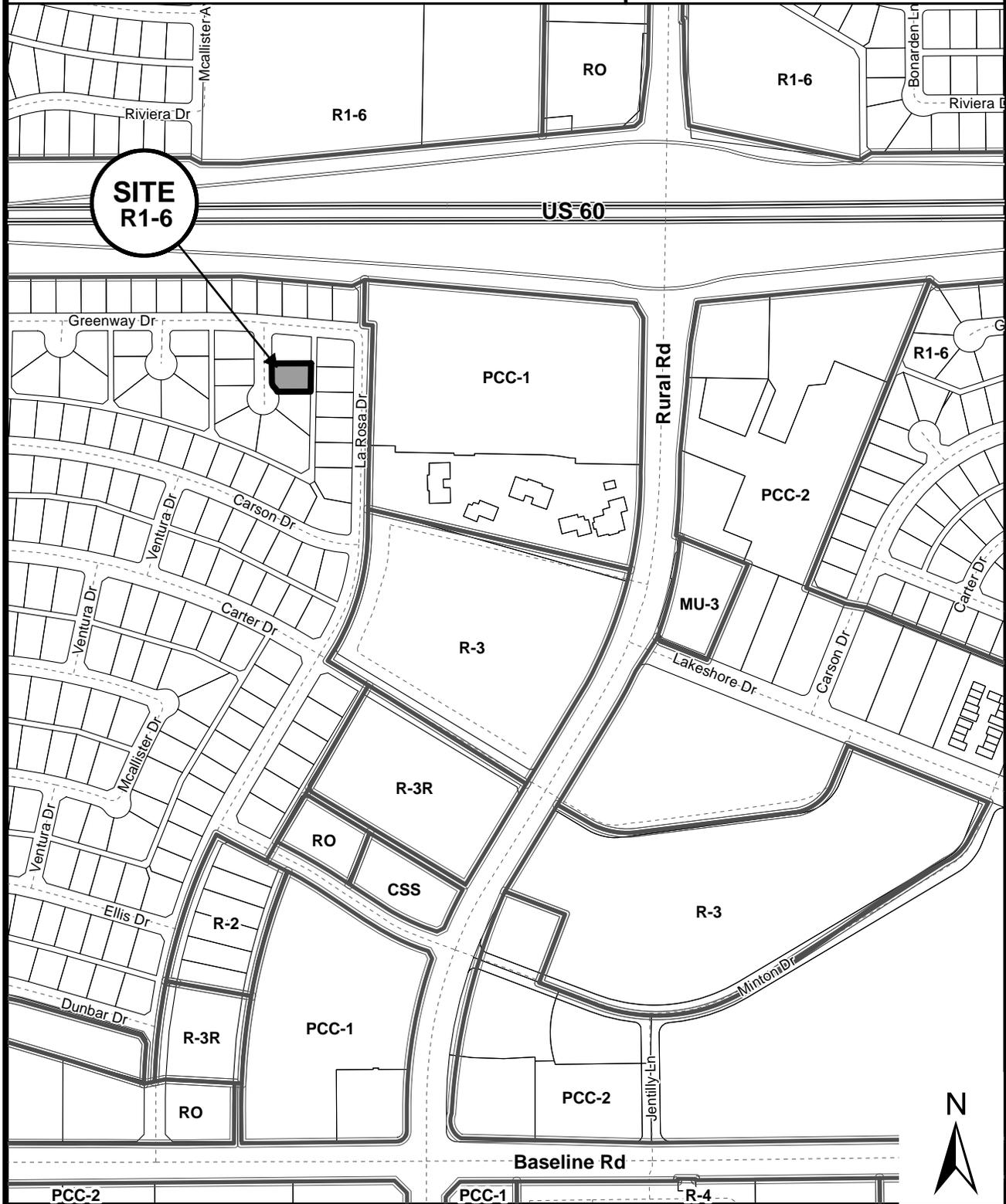
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Development Services Hearing Officer approve the abatement of this public nuisance in accordance with section 21-53 of the Tempe City Code. It is further requested that the Hearing Officer approve additional abatements as deemed necessary by Code Compliance for a period of one hundred eighty (180) days from this abatement order.

HISTORY & FACTS:

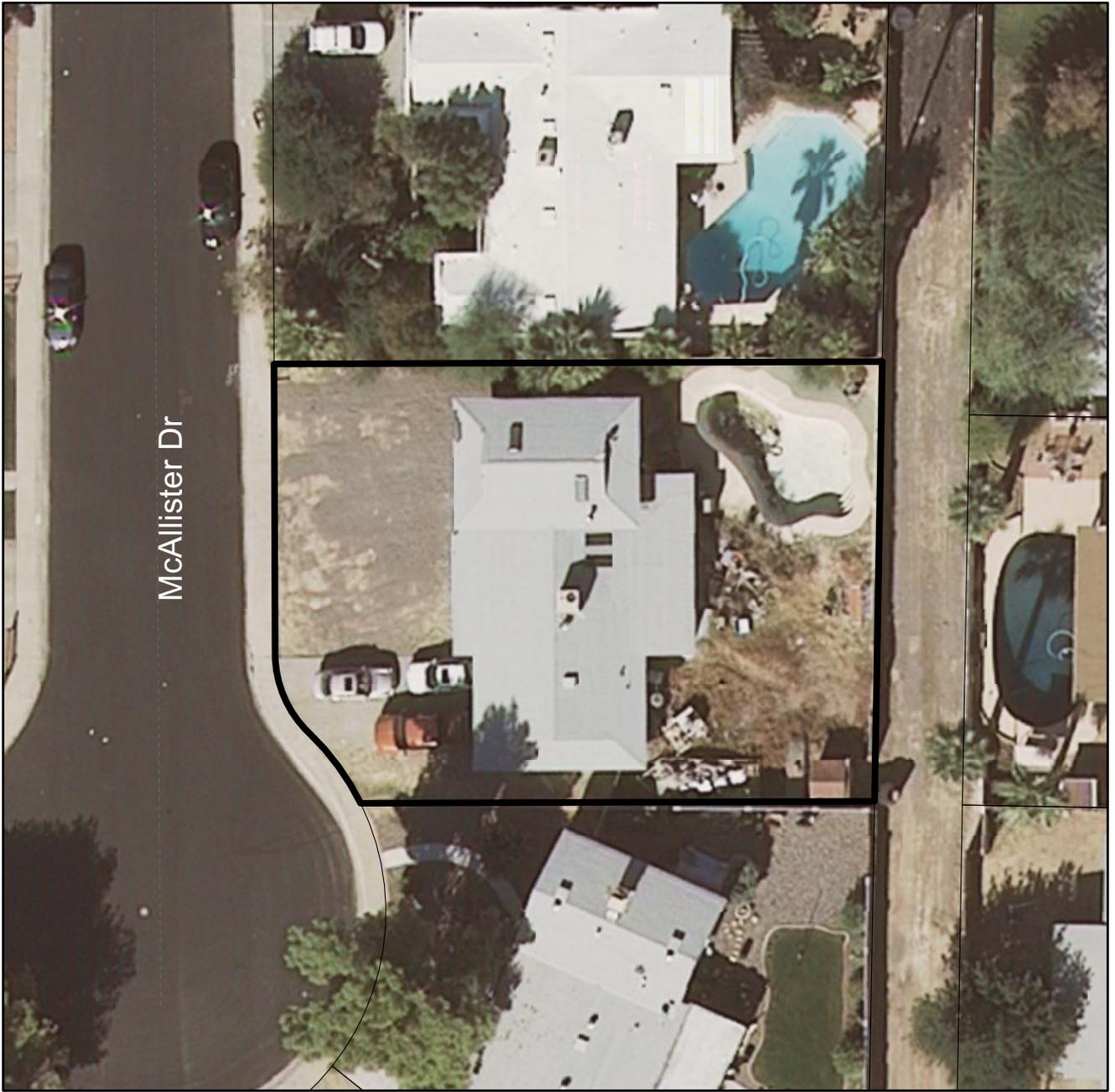
The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

BENSON RESIDENCE

PL100095



Location Map



BENSON RESIDENCE (PL100095)

DATE: 4/02/10
TO: Michael Spencer, Sr. Code Inspector
FROM: Brandy Zedlar
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE100205

LOCATION: 4411 S. McAllister Ave., Tempe, AZ 85282
LEGAL: Parcel #133-41-586, as recorded with the Maricopa County Assessor
OWNER: Edwin Benson

FINDINGS:

2/02/10 – The Neighborhood Enhancement Division received a complaint on the above property concerning the deteriorated landscape, unsecured pool and junk & debris.

2/4/10 - The property was inspected and found to be vacant with deteriorated landscape, junk & debris, broken gates, green pool water and a large amount of missing roof shingles. Notice to comply was mailed to Mr. Benson.

3/10/10 – The property was inspected with no change in its condition. Final notice to comply was posted to the property and mailed to Mr. Benson.

4/1/10 – Final notice to comply was returned with no forwarding address.

4/2/10 - The Neighborhood Enhancement Division filed for an Abatement Hearing.

PROPERTY HISTORY:

- 5 complaints have been received for deteriorated landscape between 2001-2008.
- 6/25/01 – Criminal Charges were filed against Edwin Benson in which he pleaded guilty.

RECOMMENDATIONS:

I recommend the approval for abatement at 4411 S. McAllister Ave., which is owned by Mr. Edwin Benson. Mr. Benson has been given ample time and opportunities to bring his property into compliance and has failed to take corrective action. Since the property has been abandoned, I am requesting approval for continuous abatements in the next 180 days if deemed necessary. There has been no indication in Mr. Benson actions that he plans to correct and maintain his property.



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: April 2, 2010

TO: Edwin Benson
4411 S. McAllister Ave
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: Parcel # 133-41-586, as recorded with the Maricopa County Assessor.

LOCATION: 4411 S. McAllister Ave., 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 May 4, 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: Those items constituting a violation of TCC 21-3-b-8, TCC 21-3-b-16, TCC 21-3-b-15 and TCC 21-3-b-1 which would include the following: landscape clean-up in the front, side and back yard areas, removal of the junk & debris and green pool water and secure all gates.

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 \$1824.00. 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: BRADY
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 3-31-10 TIME: _____ A.M. 3:00 P.M.

PROPOSAL

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

ADDRESS: 4411 S MCALLESTER

1. MOW AND REMOVE WEEDS & DEBRIS FROM FRONT & REAR YARDS 72 M.H. @ \$22.00/HR.	\$1584.00
2. HAULING FEES 6 LOADS @ 40.00/	\$240.00
3 PUMP POOL & SECURE 3 GATES IS FIGURED INTO ABOVE MANHOURS	
TOTAL COST FOR ABOVE ITEMS	\$1824.00

THANK YOU

ACCEPTANCE



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE

FIRST CORRECTION NOTICE

02-04-2010

EDWIN BENSON
4411 S MCALLISTER AVE
TEMPE AZ 85282-6949

Case#: CE100205
Site Address: 4411 S MCALLISTER AVE

SITE REINSPECTION ON OR AFTER: 02/22/2010 & 3/8/10

This is a notice to inform you that this site was inspected on 2/22/10 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.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.1 (Filthy, littered, debris or trash-covered exterior areas), CC 21-3.b.15 (A wall or fence deteriorated in appearance or which constitutes a hazard), CC 21-3.b.16 (Swimming pool that is deteriorated or presents a health hazard), and CC 21-4.a.2.c (Broken, rotted, split, curled or missing roofing material).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.1 Please remove trash, litter, and debris from the front and back yard areas. (Reinspect - 2/22/10)
CC 21-3.b.15 Please repair or replace the alley side gate. (Reinspect - 3/8/10)
CC 21-3.b.16 Please restore the swimming water to a clear, clean condition and secure all gates with self-closing latches or padlocks. (Reinspect - 2/22/10)
CC 21-4.a.2.c Please repair or replace all missing and loose roof shingles. (Reinspect - 3/8/10)

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

Brandy Zedlar
Code Inspector II

Direct: 480-350-8623
Code Compliance: (480)350-8372
Email: brandy_zedlar@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, subsections (b) 1-8 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$150 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) 9-16; 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.



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE

FINAL CORRECTION NOTICE

03-10-2010

EDWIN BENSON
4411 S MCALLISTER AVE
TEMPE AZ 85282-6949

Case#: CE100205
Site Address: 4411 S MCALLISTER AVE

SITE REINSPECTION ON OR AFTER: 03/25/10

This is a notice to inform you that this site was inspected on 3/09/10 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.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.1 (Filthy, littered, debris or trash-covered exterior areas), CC 21-3.b.15 (A wall or fence deteriorated in appearance or which constitutes a hazard), CC 21-3.b.16 (Swimming pool that is deteriorated or presents a health hazard), and CC 21-4.a.2.c (Broken, rotted, split, curled or missing roofing material).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.1 Please remove trash, litter, and debris from the front and back yard areas.
CC 21-3.b.15 Please repair or replace the alley side gate.
CC 21-3.b.16 Please restore the swimming water to a clear, clean condition and secure all gates with self-closing latches or padlocks.
CC 21-4.a.2.c Please repair or replace all missing and loose roof shingles.

***If the above corrective actions are not satisfied by 3/25/10, the City of Tempe will file for abatement and place 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

Direct: 480-350-8623
Code Compliance: (480)350-8372
Email: brandy_zedlar@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, subsections (b) 1-8 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$150 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) 9-16; 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.









