

Staff Summary Report



Hearing Officer Hearing Date: 12/21/10

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 **BURKE RESIDENCE** located at 1134 West Second Street.

DOCUMENT NAME: 20101221cddk01 **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 **BURKE RESIDENCE (PL100394 /ABT10039 /CE104082)** (Shawn Daffara, Inspector; John, Helen & Donna Burke, property owners) located at 1134 West Second Street 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*

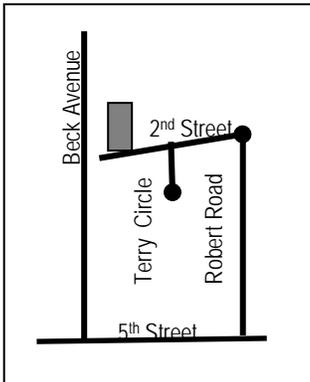
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: \$1,516 spent for emergency abatement, \$1,032 for remaining abatement plus \$135 per vehicle for towing, the total cost of the abatement and towing, \$2,683, will be levied on the property.

RECOMMENDATION: Staff – Approval of Abatement Proceedings

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Burke Residence located at 1134 West Second Street in the R1-6, Single Family Residential District. The property is generally located north of 5th Street, east of Priest in the Sunset Neighborhood Association. 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 CE104082: Deteriorated landscape, abandoned vehicle, deteriorated fence, peeling and missing paint, damaged doors, unsecured storage sheds, junk and debris on property.

The property has had six complaints in the past five years. During this time, the property owners passed away, the power of attorney to the will, the oldest daughter, also passed away. The surviving daughter was not given rights to the property within the will. The property has unpaid property taxes and remains in limbo with the State. An emergency abatement was conducted in November due to homeless trespassing on the property and living in the storage sheds. Due to the history of recidivism and no legally identifiable 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
- 3-16. Code Compliance Report & Photographs

COMMENTS:

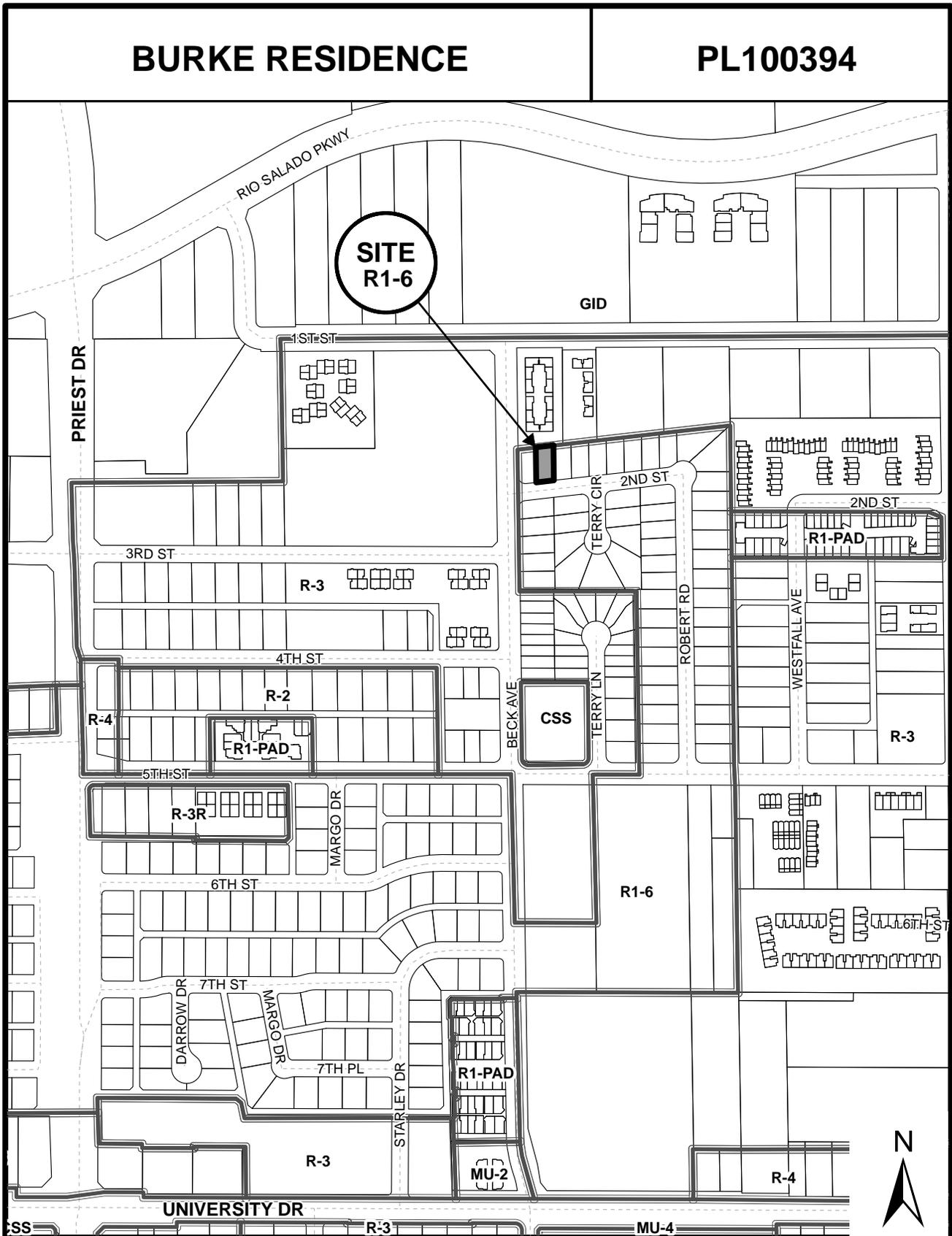
Code Compliance is requesting approval to abate the Burke Residence located at 1134 West Second Street in the R1-6, Single Family Residential District. This case was initiated on April 19, 2010 and November 5, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owners, John, Helen & Donna Burke , regarding violations of the Tempe City Code for deteriorated landscaping, paint, fencing, an abandoned vehicle, damaged doors, unsecured storage sheds and building, and transient trespassing within yard and storage sheds. The owners of the property are deceased, the oldest daughter who had power of attorney is also deceased, the younger daughter has tried to maintain the property although she has no formal rights to the property. Due to the public health and safety conditions, Tempe Police inspected the property for homeless prior to an emergency abatement being done on November 15th to secure the residence and remove the five metal storage sheds. With the emergency abatement completed, Code Compliance staff are requesting completion of the abatement to remove dead landscape material, a vehicle, weeds, junk and debris from the property. 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. Based on the history of this property, staff is requesting a 180-day continuous abatement, to maintain public health safety and welfare of the neighborhood.

HISTORY & FACTS:

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

BURKE RESIDENCE

PL100394



Location Map



BURKE RESIDENCE (PL100394)

DATE: 11/22/2010
TO: Michael Spencer, Senior Code Inspector
FROM: Shawn Daffara, Code Inspector II
SUBJECT: Request to Abate Nuisance and Zoning Violations

LOCATION: 1134 W. 2nd St.. Tempe, AZ 85281

LEGAL: Book 124, Map 29, Parcel 021, as recorded with the Maricopa County Assessor

OWNER: JOHN AND HELEN BURKE
1134 W. 2ND ST
TEMPE, AZ 85281

DONNA BURKE
1622 W. TAYLOR ST.
PHOENIX, AZ 85007

CE104082-FINDINGS:

- 11/5/10 The Code Compliance Division received a complaint for the above property for deteriorated landscaping, abandoned vehicle in sideyard, deteriorated fence, deteriorated paint, damaged front and rear doors, unsecured storage sheds with junk and debris and homeless living in backyard metal sheds.
- 11/08/10 Inspected property and property is abandoned, junk and debris in front and backyard, damaged fence on west side of home, abandoned vehicle on side of house, deteriorated paint on front of home, 5 sheds in backyard full of litter, junk and debris. Evidence of homeless residing in metal storage sheds. Dead trees in backyard and high grass and weeds in front and back yard. Front door and back rear door open and house unsecured. Final Notice issued with notice to Emergency Abate property to secure house and remove storage sheds that have housed homeless.
- 11/10/10 Found that owners John and Helen Burke are deceased and old notes show a daughter Donna Burke maintaining the property. Spoke with Donna and she explained that parents are deceased and oldest daughter Jackie Burke who had power of attorney is also deceased. She stated she has no formal rights to property but she does attempt to maintain it. Explained to Donna that House and sheds need to be secured or sheds removed by Friday 11/12/10 or City will emergency abate those violations.

- 11/12/10 No change on site. Will proceed with Emergency Abatement. Spoke with Jack Harrington his crew will be on site Monday morning 11/15/10 to secure house and remove sheds. Tempe police requested an interior search to determine if homeless have been living inside the vacant home. Tempe Police conducted interior inspection and found some evidence of homeless activity inside home. Sgt. Aimee Wilcoxson would like to check property again on Monday before house is completely secured.
- 11/15/10 Tempe Police conducted one last interior sweep. No people found inside the home. Jack Harrington crew on site to perform emergency abatement. Front Door has new padlock and damaged screen doors removed. Rear door removed and boarded up. Crews starting to remove the 5 storage sheds. One shed removed today.
- 11/16/10 Day 2 of emergency abatement. Two more sheds removed, two more sheds remain. All sheds should be removed by Thursday 11/18/10.
- 11/18/10 Day 4 of emergency abatement. All sheds have been removed. Crew has to come back early Friday to do a little more cleanup of junk and debris.
- 11/19/10 Emergency abatement complete. House has been secured and all 5 sheds removed from site. Spoke with Donna Burke, explained that emergency abatement finished and other violations have a Final reinspection of 11/22/10. Donna said she will do her best to get remainder of items done but not very likely. She thinks it may be easier for City to Abate property. Property might be taken by State due to back taxes. She has until February 2011 to pay back taxes and get house under her name or State will take property due to years of back/delinquent taxes.
- 11/22/10 No change on the remaining violations. Will post property for abatement and schedule abatement hearing for 12/21/10.

COMPLAINT HISTORY:

- | | | |
|----------|----------|---|
| CE101418 | 4/19/10 | Complaint for deteriorated landscape, high grass and weeds in front yard. |
| CE093311 | 5/16/09 | Complaint for deteriorated landscape, high grass and weeds in front yard. |
| CE087601 | 10/29/08 | Complaint for high grass and weeds in front yard. |
| CE082060 | 3/10/08 | Complaint for deteriorated landscape, high grass and weeds, litter in front yard. |
| CE071674 | 4/5/07 | Complaint for deteriorated landscape in front yard. |

CE055721 12/15/05

Complaint for deteriorated landscape in front yard.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violation be done at the property of 1134 W. 2nd Street due to failure to come into compliance with Tempe City Codes. Owners of property are deceased and surviving daughter Donna Burke is unable to maintain property and has no legal ownership to property. I request approval for a 180 day Standing Abatement to remove the over height grass and weeds, litter, debris and unregistered vehicle in sideyard due to the past history of code violations and given lack of a current owner to correct these violations.

Respectfully submitted,

Shawn Daffara

ACTION TAKEN: Procede

NAME Dean Miller

DATE: 11-23-10



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE**

11-08-2010

BURKE DONNA
1622 W. TAYLOR ST
PHOENIX, AZ 85007

Case#: CE104082
Site Address: 1134 W 2ND ST

**SITE REINSPECTION ON OR AFTER: 11/12/10: Secure house, screen door and remove storage sheds.
11/22/2010: Car, Fence, and Landscape clean up**

This is a notice to inform you that this site was inspected on 11/08/2010 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas
CC 21-3.b.3	An inoperable vehicle or parts thereof outside of or under a roof area not enclosed
CC 21-3.b.3	An unregistered vehicle outside of or under a roof area not enclosed
CC 21-3.b.8	Landscaping that is substantially dead damaged or characterized by uncontrolled growth
CC 21-3.b.9	Unsecured Buildings and structures.
CC 21-3.b.15	Deteriorated Fence
CC 21-4.a.2.b	Deteriorated Paint
CC 21-4a.2.f	Deteriorated Exterior Doors and Windows.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.1	Please remove trash, litter, and debris from property.
CC 21-3.b.3	Please repair or remove vehicle
CC 21-3.b.3	Please register or remove vehicle
CC 21-3.b.8	Please remove grass and weeds from gravel area of front yard landscape. Please remove all dead trees, shrubs, and other dead landscape from the property.
CC 21-3.b.9	Please secure the main house and all storage sheds. Storage Sheds may need to be removed if you are unable to secure.
CC 21-3.b.15	The wooden fence is damaged beyond repair. Please remove or replace.
CC 21-4.a.2.b	Please replace the damaged fascia trim on the house and repaint.
CC 21-4a.2.f	Please secure all doors on property. The front screen door is damaged beyond repair and needs to be replaced.

House needs to be secured and sheds secured or removed by 11/12/10 or City will proceed with an Emergency Abatement.

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

**Shawn Daffara
Code Inspector II**

**Direct: 480-858-2284
Code Compliance: (480)350-8372
Email: shawn_daffara@tempe.gov**



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE**

11-08-2010

JOHN AND HELEN BURKE
1134 W. 2ND ST
TEMPE, AZ 85281

Case#: CE104082
Site Address: 1134 W 2ND ST

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

**Shawn Daffara
Code Inspector II**

**Direct: 480-858-2284
Code Compliance: (480)350-8372
Email: shawn_daffara@tempe.gov**



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

Neighborhood Enhancement Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: NOVEMBER 22, 2010

TO: JOHN AND HELEN BURKE
1134 W. 2ND ST
TEMPE, AZ 85281

DONNA BURKE
1622 W. TAYLOR ST.
PHOENIX, AZ 85007

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations **CE104082** on the following described property:

LEGAL: Book 124, Map 29, Parcel 021, as recorded with the Maricopa County Assessor.

LOCATION: 1134 W. 2ND ST. TEMPE, AZ 85281

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of DECEMBER 21 2010, at 1:30 pm. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal or repair of:

- REMOVE VEHICLE (NO IDENTIFICATION), WHICH IS IN VIOLATION OF TEMPE CITY CODE 21-3-B-3.
- REMOVAL OF ALL OVER HEIGHT GRASS AND WEEDS, DEAD TREES AND OTHER DEAD GROWTH ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-8.
- REMOVAL OF ALL JUNK AND DEBRIS ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-1.
- REOVAL OF DAMAGED FENCE AND FENCE DEBRIS ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-15.

As owner of the property, this is your receipt of this letter to abate or correct the violation. If the violations have not been corrected, 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 approximately \$1,167.00. 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) 858-2284.

Code Inspector: Shawn Daffara
Phone Number: 480-858-2284
E-mail: Shawn_Daffara@Tempe.gov

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: *Emergency Abatement!*

NAME: SHAWN
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL MEMORANDUM PLUS 0 PAGE(S)

DATE: 11/11/2010 TIME: _____ A.M. 1:00 P.M.

PROPOSAL

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

ADDRESS: 1134 W. 2ND ST. TEMPE, AZ.

- | | |
|--|------------------|
| 1. BOARD UP FRONT DOOR -1 SHEET OF PLYWOOD | \$60.00 |
| 2. REMOVE 5- METAL SHEDS & 1 OLD PLYWOOD SHED. | |
| 3. 4- LOADS @ \$100.00 | \$400.00 |
| 4. 3 – MEN / 2 DAYS | \$1056.00 |
| TOTAL FOR THE ABOVE ITEMS | <u>\$1516.00</u> |

*Emergency
abatement
Costs*

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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: SHAWN
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL MEMORANDUM PLUS 0 PAGE(S)

DATE: 11/11/2010 TIME: _____ A.M. 1:15 P.M.

PROPOSAL

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

ADDRESS: 1134 W. 2ND ST. TEMPE, AZ.

1. CLEAN YARDS OF GRASS WEEDS & DEBRIS, DEAD TREES.
REMOVING SHEDS AND ALL CONTENTS.
7- LOADS @ \$100./LOAD \$700.00
2. REMOVE OLD ABANDONED VEHICLE IN BACK YARD \$135.00
3-MEN/ 3/5 DAYS \$1848.00

TOTAL FOR ABOVE ITEMS

~~\$2683.00~~ \$1,167.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON











