

Staff Summary Report



Hearing Officer Hearing Date: August 17, 2010

Agenda Item Number: 8

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Clymer Residence located at 2118 East Radcliffe Drive.

DOCUMENT NAME: 20100817dsrl02 **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 **CLYMER RESIDENCE (PL100219/ABT10013/CE101857)** (Jack Scofield, Inspector; Carl Clymer, property owner) located at 2118 East Radcliffe Drive in the R1-6, Single Family Residential District.

PREPARED BY: Ryan Levesque, Senior Planner (480-858-2393)

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 Moore Residence located at 2118 East Radcliffe Drive in the R1-6, Single Family Residential District. The property is generally located southwest of Baseline Road and Price Road. 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 CE101857: "Overgrown grass and weeds; Swimming pool a health hazard"

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-11. Code Compliance Report & Photographs

COMMENTS:

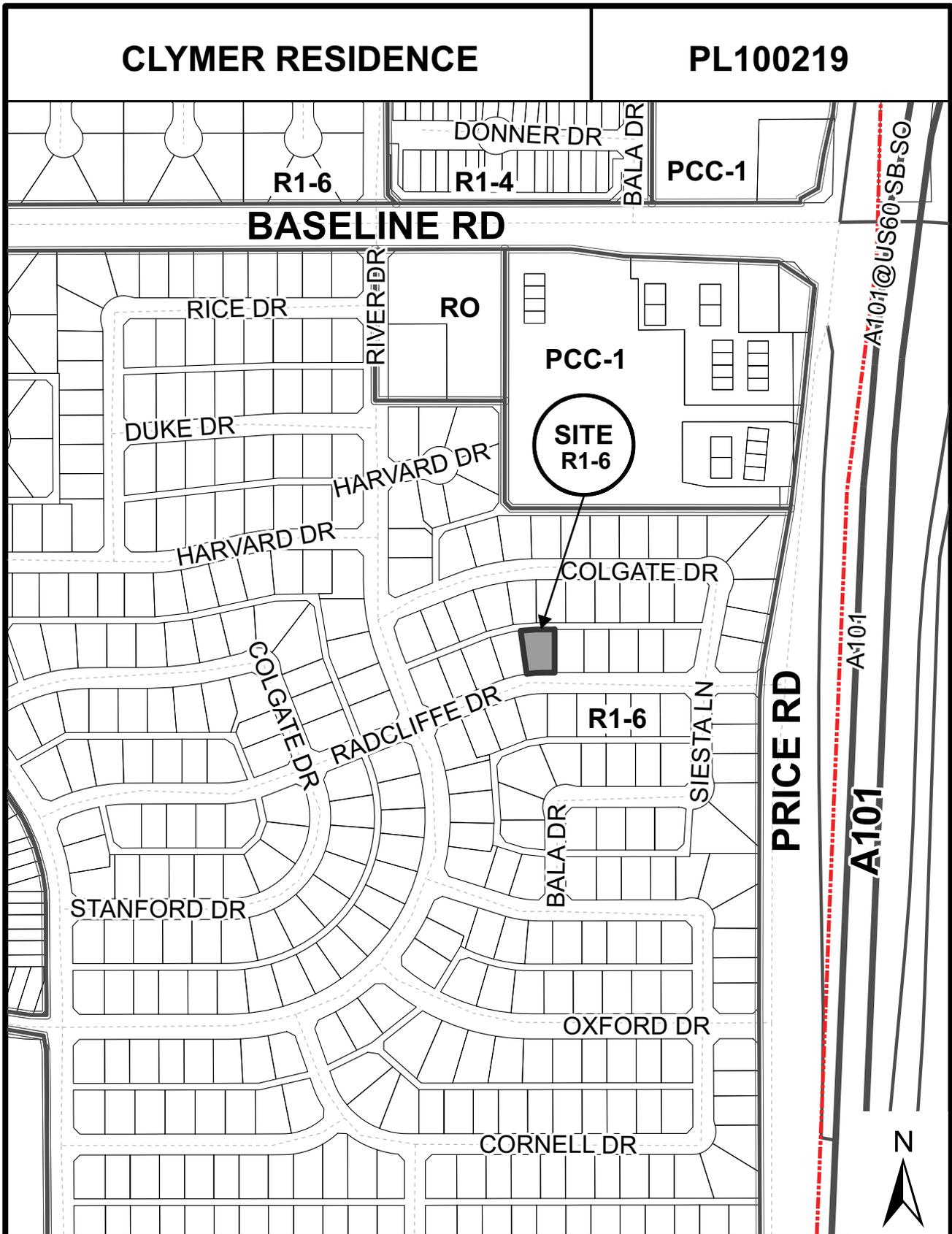
Code Compliance is requesting approval to abate the Clymer Residence located at 2118 East Radcliffe Drive in the R1-6, Single Family Residential District. This case was initiated on May 19, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Carl Clymer, regarding violations of the Tempe City Code for Section 21-3.b.8. Landscaping that is substantially dead damaged or characterized by uncontrolled growth; and Section 21-3.b.16. Swimming pool that is deteriorated or presents a health hazard;

Mr. Clymer has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to the violations

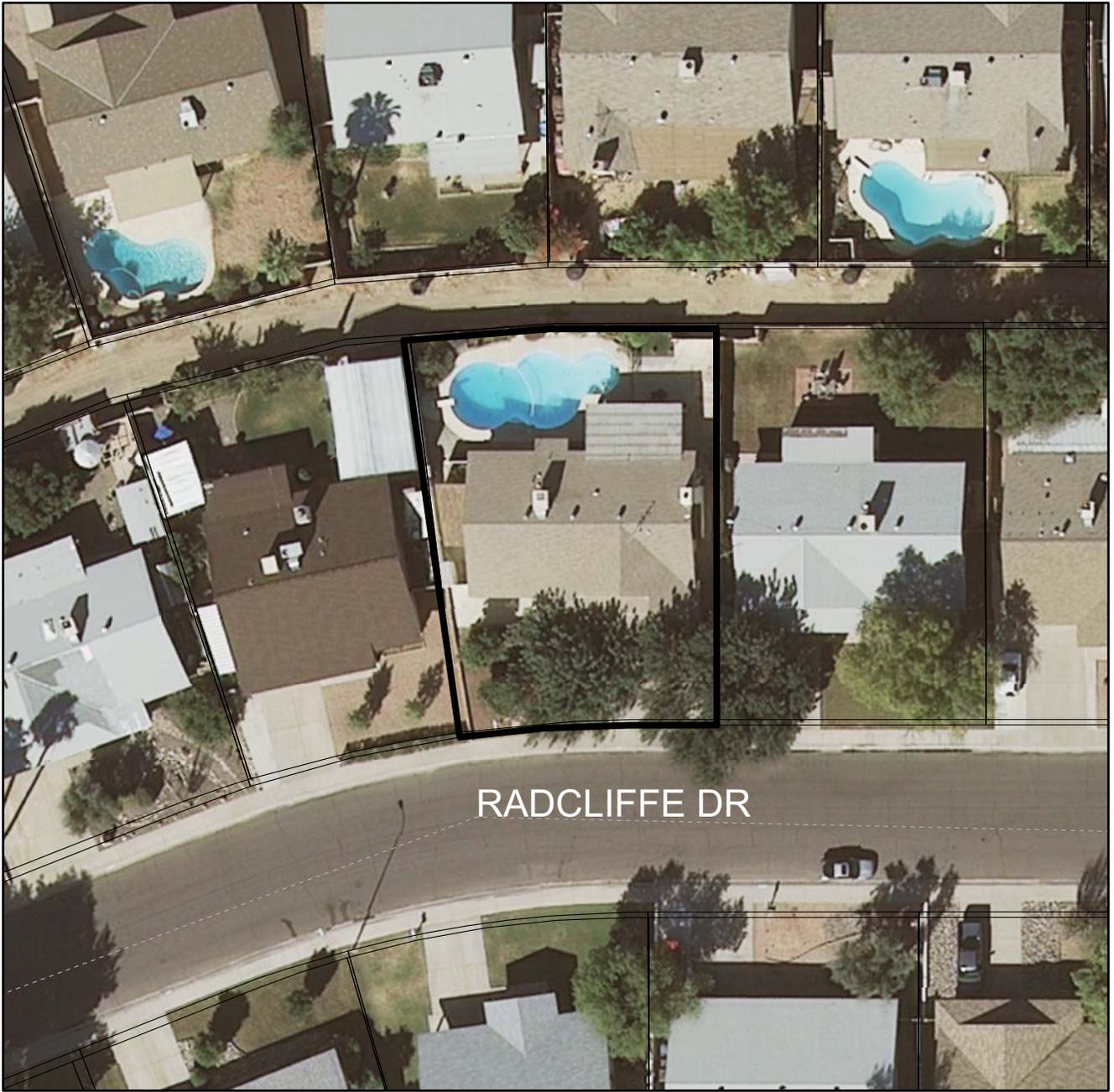
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code. An open abatement is not necessary at this time.

HISTORY & FACTS:

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



Location Map



CLYMER RESIDENCE (PL100219)

DATE: July 8, 2010
TO: Mike Spencer, Senior Code Inspector
FROM: Jack Scofield, Code Inspector
SUBJECT: CE101857, Clymer Residence Abatement

LOCATION: 2118 E RADCLIFFE DR TEMPE, AZ 85283
LEGAL: KNOELL TEMPE UNIT 7 PER MCR 178-16
PARCEL: 305-01-422
OWNER: CLYMER CARL EDWARD/MAEL

FINDINGS:

5/19/2010 The Code Compliance Division received a complaint concerning over height grass and weeds, and a deteriorated pool on property.

5/20/2010 Inspected property and found over height grass and weeds in the front and rear yards and a deteriorated pool with green stagnant water. Notice to comply posted on property

5/25/2010 Notice to comply mailed to alternate address for property owner.

6/2/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property.

6/7/2010 Final notice to comply mailed to property owner. Also contacted realtor and she advised that the property owner will not spend any money to correct the violations.

6/15/2010 Violations not corrected, Citation issued.

6/16/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property.

7/6/2010 Property owner failed to appear for court date to address citation.

7/8/2010 Posted notice of intent to abate to property and mailed copy to property owner.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property at 2118 E Radcliff, due to property owner's failure to bring property into compliance with Tempe City Codes 21-3.B.8 and 21-3.B.16. Mr. Clymer has been given ample time to come into compliance and maintain the property. Mr. Clymer has failed to appear for court to address the citation issued for these violations. There has been no indication Mr. Clymer will come into compliance. The property represents a health hazard and an eyesore to the community.

Respectfully submitted,

Jack Scofield
Code Inspector II

ACTION TAKEN: submit for abatement
NAME: 
DATE: 7-8-10

CASE # CE101857



City of Tempe Code Compliance Division
Notice to Comply

This is a courtesy notice to inform you that on 5-20-10, the property located at 2118 E Redcliffe was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21 of the Tempe City Code. A re-inspection will be conducted on or after the date indicated to verify compliance. If the property is brought into compliance with the code by 5-25-10, you will not be subject to citations or fines for the violation(s).

- 21-3 (b) (1): Filthy, littered, debris or trash covered exterior areas, including exterior areas under any roof area 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.
- 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.
- 21-3 (b) (4) : To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use.
- 21-3 (b) (7) : Any object, building, tree, bush or vehicle that interferes with, obstructs, tends to obstruct, or renders dangerous the free passage, use or vision in the customary manner of any sidewalk, street or highway.
- 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.
- 21-3 (b) (16): Unsecured swimming pool or Deteriorated or green pool

Other _____

Required Correction(s) to avoid further enforcement action:

Remove grass and weeds in gravel areas of front + rear yards
Restore pool water to clean clear condition

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.

Posted to the property _____ or delivered to _____

Code Inspector Jack Scofield Phone Number 480- 350-8967

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.



**DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

05-25-2010

CLYMER CARL EDWARD/MAEL
4355 W VICTORY RD
MERIDIAN, ID 83642

Case#: CE101857
Site Address: 2118 E RADCLIFFE DR

SITE REINSPECTION ON OR AFTER: 06/05/2010

This is a notice to inform you that this site was inspected on 05/25/2010 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.8	Landscaping that is substantially dead damaged or characterized by uncontrolled growth
CC 21-3.b.16	Swimming pool that is deteriorated or presents a health hazard

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.8	Please remove grass and weeds from gravel area of front yard landscape
CC 21-3.b.16	Please restore water to a clear, clean condition

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

Jack Scofield
Code Inspector II

Direct: 480-350-8967
Code Compliance: (480)350-8372
Email: jack_scofield@tempe.gov

Civil and Criminal Penalties

<p>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 \$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) 9-14, 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.</p>

SEE PAGE 2 (OTHER SIDE OF NOTICE) FOR CC/ZDC REFERENCE

Violation of City of Tempe Code 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.

Violation of City of Tempe Code 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.



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

06-07-2010

CLYMER CARL EDWARD/MAEL
4355 W VICTORY RD
MERIDIAN, ID 83642

Case#: CE101857
Site Address: 2118 E RADCLIFFE DR

SITE REINSPECTION ON OR AFTER: 06/15/2010

This is a notice to inform you that this site was inspected on 06/07/2010 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.8	Landscaping that is substantially dead damaged or characterized by uncontrolled growth
CC 21-3.b.16	Swimming pool that is deteriorated or presents a health hazard

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.8	Please remove grass and weeds from gravel area of front and rear yard landscapes
CC 21-3.b.16	Please restore water to a clear, clean condition

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

Jack Scofield
Code Inspector II

Direct: 480-350-8967
Code Compliance: (480)350-8372
Email: jack_scofield@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 \$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) 9-14, 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.

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CASE # CE101857



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 07/08/2010

CLYMER CARL EDWARD/MAEL
4355 W VICTORY RD
MERIDIAN ID 83642

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

Legal: KNOELL TEMPE UNIT 7 PER MCR 178-16
Location: 2118 E RADCLIFFE DR TEMPE, AZ 85283
Parcel: 305-01-422

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of **08/17/2010**. 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:

- **Removal of all uncontrolled growth of grass and weeds in the gravel areas of the front and rear yard landscape(s).**
- **Restore pool water to a clean and clear state**

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 **\$697.00**. 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: Jack Scofield

Phone Number: (480)350-8967

E-mail: jack_scofield@tempe.gov

