

Staff Summary Report



Hearing Officer Hearing Date: April 20, 2010

Agenda Item Number: 9

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Department to abate public nuisance items at the Freand Residence located at 3120 South Dromedary Drive.

DOCUMENT NAME: 20100420dssl04 **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 **FREAND RESIDENCE (PL100085/ABT10004/CE096451)** (Jody Benson, Inspector; Lee Roy Freand, property owner) located at 3120 South Dromedary Drive 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*

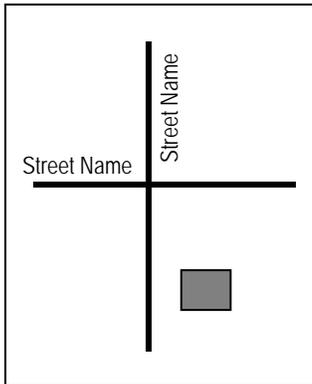
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Authorize Abatement

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Freand Residence located at 3120 South Dromedary 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 CE096451: Excessive storage; debris; deteriorated landscape, deteriorated fence and unregistered recreational vehicle.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-21. Neighborhood Enhancement Report

COMMENTS:

Code Compliance is requesting approval to abate the Freand Residence located at 3120 South Dromedary Drive in the R1-6, Single Family Residential District. This case was initiated on December 22, 2009 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Lee Roy Freand, regarding violations of the Tempe City Code for excessive junk and debris, deteriorated fencing and unregistered vehicle.

Mr. Freand received a courtesy notice citing the specific items in violation with Tempe City Code with regards to excessive storage; debris; deteriorated landscape, deteriorated fence and unregistered recreational vehicle.

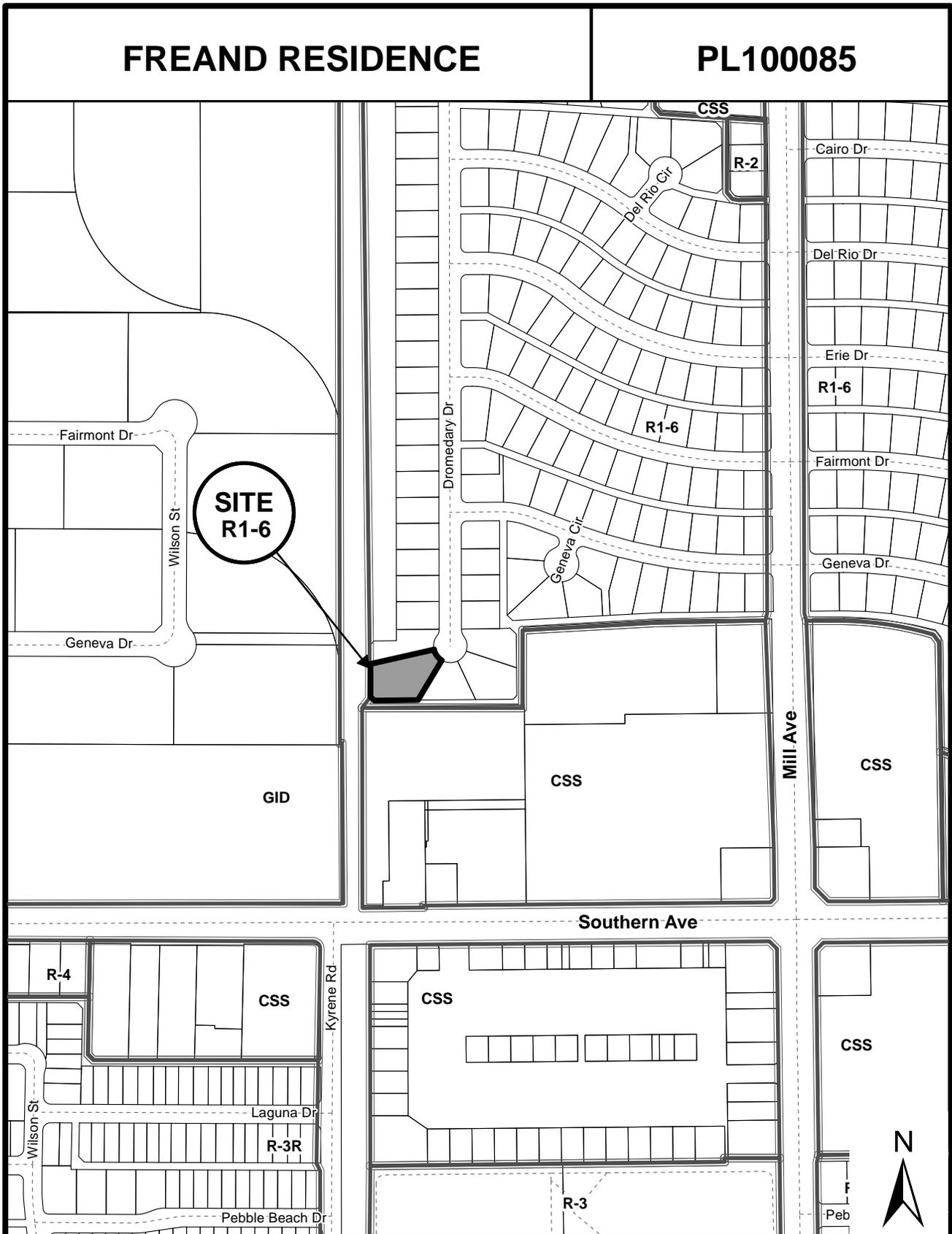
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Development Services Hearing Officer approve the abatement of this public nuisance in accordance with section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

FREAND RESIDENCE

PL100085



Location Map



Dromedary Dr

FREAND RESIDENCE (PL100085)

DATE: April 12, 2010
TO: Mike Spencer Sr. Code Inspector
FROM: Jody Benson, Code Inspector
SUBJECT: Request for Authorization to Abate Complaint CE096451

COMPLAINT: CE096451

LOCATION: 3120 S Dromedary Drive, Tempe, AZ 85282

LEGAL: LOT 2, OF COLBY CIRCLE ACCORFING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 207 OF MAPS, PAGE 29. EXCEPT THAT PORTION OF SAID LOT 2 DESCRIBED IN DEED RECORDED IN DOCKET 14754, PAGE 1198.

OWNER: Lee Roy Freand
3120 S. Dromedary Dr
Tempe AZ 85282

Lee Roy Freand
1028 E. Tempe Dr
Tempe, AZ 85282

FINDINGS:

12/22/09 Received a complaint for junk and debris, deteriorated fencing and unregistered vehicle.

12/23/09 Inspected the property. The back yard is littered with items and is open and viewable from the alley. Identified the following violations and sent notice to correct:

1. Excessive storage items/junk and debris (boxes, cans, paper, buckets, storage containers, and other miscellaneous items) are strewn about the front, back, and side yard(s) (entire property).
2. Broken pane of glass in the front window.
3. Unregistered trailer with no tag in the driveway.
4. Unregistered large recreational vehicle parked with az tag# 176lrj is parked in the south side of the back yard.
5. Over height grass and weeds in the concrete in the south side of the back yard.

6. Broken front gate and fence boards broken or missing around the property.

- 1/15/10 Received an additional complaint of trash and debris.
- 01/19/10 Very little change (the trailer was moved). The house is still vacant. It appears that someone has stripped the A/C on the roof. Will discuss abatement/and or criminal charges with my supervisor.
- 01/22/10 Sent a final notice to comply.
- 02/04/10 Inspected the property and found some progress on the junk and debris; some items were removed from the backyard.
- 02/18/10 Inspected the property and found some progress on the junk and debris; some items were removed from the backyard.
- 03/03/2010 I took senior code inspector Mike Spencer to the property. He advised to handle all violations through the abatement process with the hearing officer.
- Returned to the property and met Jack Harrington to get an abatement estimate.
- 03/11/2010 Took photos and hung a notice of intent to abate on the front door and mailed a notice as well.
- 3/19/10 Received additional complaint about weeds in the gravel landscape.
- 03/23/10 Inspected the property and found no changes. Took photos for abatement request.
- 03/23/10 Submitted request for abatement hearing on the 04/20/10 agenda. Spoke to planning staff Sherri Lesser.
- 04/06/10 The property is still in violation and appears to have no further progress. I took additional photos.
- 04/12/10 Called the trustee and discovered that the home is set to auction again on 05/17/10.

COMPLAINT HISTORY

The following history reflects all valid complaints on this property since Lee Roy Freand established ownership of 3120 S Dromedary Drive in August 30th of 2005.

CE060092 **January 2006 through March of 2006** Complaint for junk and debris and unpainted/unprotected wood surface(s). In compliance in just under two months. Kirk Erickson was the inspector.

CE093703 **June 2009 through November 2009** Complaint for junk and debris, unsecure pool (large inflatable pool in the driveway and glazing. In compliance in about six months. Jody Benson was the inspector.

RECOMMENDATIONS:

The property at 3120 S Dromedary Drive may be vacant. The home is being foreclosed and another auction date has been set for 05/17/10. In the prior case for 2009 the owners daughter and son-in-law advised were residing at the residence. They advised they were trying to work something out with the lender on the property. There are multiple violations at the property; deteriorated landscape, junk and debris, deteriorated fence, and an unregistered motor home that does not meet the requirements of 21-3(b)(3) of being concealed behind a substantially opaque fence.

There have been 2 prior cases at the property for junk and debris. 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.

Lee Roy Freand 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 # CE096451

City of Tempe Code Compliance Division
Notice to Comply: Chapter 21, Nuisances and Property Enhancement

Notice Delivered to:

LEE ROY FREAND
3120 S. DROMEDARY DRIVE
TEMPE AZ 85282

LEE ROY FREAND
1028 E. TEMPE DRIVE
TEMPE, AZ 85282

This notice to comply is to inform you that on 12/23/09, the property located at 3120 S. DROMEDARY DRIVE, TEMPE was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I and Article II, of the Tempe City Code. A re-inspection will be conducted on 01/12/10 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).

Please take the following corrective action to avoid a citation for each violation.

Required Correction(s):

- 1. PLEASE REMOVE EXCESSIVE STORAGE ITEMS/JUNK AND DEBRIS (BOXES, CANS, PAPER, BUCKETS, STORAGE CONTAINERS, AND ALL OTHER MISCELLANEOUS ITEMS) THAT ARE STREWN ABOUT THE FRONT, BACK, AND SIDE YARD(S) (ENTIRE PROPERTY).
2. PLEASE REPLACE THE BROKEN PANE OF GLASS IN THE FRONT WINDOW.
3. PLEASE REGISTER OR REMOVE THE TRAILER WITH NO TAG IN THE DRIVEWAY.
4. PLEASE REGISTER OR REMOVE THE UN-REGISTERED LARGE RECREATIONAL VEHICLE PARKED WITH AZ TAG# 176LRJ THAT IS PARKED IN THE SOUTH SIDE OF THE BACK YARD.
5. PLEASE CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE CONCRETE IN THE SOUTH SIDE OF THE BACK YARD.
6. PLEASE REPAIR THE BROKEN FRONT GATE.

Violation of the Tempe City Code, Chapter 21-3-b-1

It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance. A nuisance includes any one or more of the following conditions:

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

It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance. A nuisance includes any one or more of the following conditions:

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.

Violation of the Tempe City Code, Chapter 21-3-b-8

It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance. A nuisance includes any one or more of the following conditions:

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.

Tempe City Code, Chapter 21-3-c

Nothing in subsections (1) through (5) of this section shall be deemed to apply to safe and neat outdoor accessory storage, use or repair of items customarily associated with the lawful use of such property in the city, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the storage, use or repair, 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.

Violation of the Tempe City Code, Chapter 21-4-a-2-e

It shall be unlawful and a violation of this code for any person to erect, maintain, use, place, deposit, cause, allow, leave or permit to remain any of the following: For any residential property:

Glazed areas not in sound condition or maintained free of missing, loose, cracked or broken glass.

Glazed: means fitted with glass.

Violation of the Tempe City Code, Chapter 21-3-b-15

It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance. A nuisance includes any one or more of the following conditions:

Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or slum-like appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.

Tempe City Code, Chapter 21-43(d)

Additional notice; notice not required. Nothing herein shall preclude the city from giving additional verbal or written notice at its discretion but it is not obligated to notify the same person as to a second (or additional) violation which has been the subject of a notice to comply within the previous twelve (12) month period. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situations. Nothing in this section shall require the issuance of a second notice to comply within twelve (12) months prior to commencement of civil or criminal violation proceedings.

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.

Page 3 of 3

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.

The City of Tempe is not obligated to notify the same person as to a second (or additional) violation which has been the subject of a notice to comply within the previous twelve (12) month period and may commence civil or criminal violation proceedings without further notice per Tempe City Code 21-43(d).

Code Inspector: JODY BENSON

Phone Number: (480)350-8671

E-mail: JODY_BENSON@TEMPE.GOV



CASE # CE096451A

City of Tempe Code Compliance Division
Notice to Comply: Chapter 21, Nuisances and Property Enhancement
FINAL NOTICE

Notice Delivered to:

Table with 4 columns: LEE ROY FREAND (3120 S. DROMEDARY DR, TEMPE AZ 85282), LEE ROY FREAND (1028 E. TEMPE DR, TEMPE, AZ 85282), CORPORATION SERVICE CO. (C/O GMAC MORTGAGE, LLC, 2338 W ROYAL PALM RD STE J, PHOENIX, AZ 85021), EXECUTIVE TRUSTEE SERVICES, LLC (2255 N. ONTARIO STREET #400, BURBANK, CA 91504-3120)

This notice to comply is to inform you that on 01/19/09, the property located at 3120 S. DROMEDARY DRIVE, TEMPE was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I and Article II, of the Tempe City Code. A re-inspection will be conducted on 02/04/10 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).

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THIS IS YOUR FINAL NOTICE.

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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Code Inspector: JODY BENSON

Phone Number: (480)350-8671

E-mail: JODY_BENSON@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:

NAME: **JODY BENSON**

FIRM: CITY OF TEMPE CODE COMPLIANCE

DATE: 3-4-10 TIME: 11:00 A.M. _____ P.M.

PROPOSAL

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

ADDRESS: 3120 S. DROMEDARY TEMPE, AZ.

1. CLEAN FRONT AND BACK YARDS 22 MAN HRS & DUMPSTER	\$1556.00
2. TOW AWAY RV	\$135.00
3. REPAIR WOODEN FENCE	\$295.00
4. POLICE OFFICER 8 HRS @ \$50./HR	<u>\$400.00</u>
TOTAL COST FOR ABOVE ITEMS	\$2386.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

CASE # **CE096451**



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: **03/11/2010**

LEE ROY FREAND 3120 S. DROMEDARY DR TEMPE AZ 85282	LEE ROY FREAND 1028 E. TEMPE DR TEMPE, AZ 85282	CORPORATION SERVICE CO. C/O GMAC MORTGAGE, LLC 2338 W ROYAL PALM RD STE J PHOENIX, AZ 85021	EXECUTIVE TRUSTEE SERVICES, LLC 2255 N. ONTARIO STREET #400 BURBANK, CA 91504-3120
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This serves as notification of the City of Tempe's intentions regarding the abatement of code violations on the following described property:

Legal: LOT 2, OF COLBY CIRCLE ACCORFING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 207 OF MAPS, PAGE 29. EXCEPT THAT PORTION OF SAID LOT 2 DESCRIBED IN DEED RECORDED IN DOCKET 14754, PAGE 1198.

Location: 3120 S. DROMEDARY DRIVE, 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 **04/20/2010**. 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 junk and debris in the front back and side yard(s).**
- **Removal of the unregistered recreational vehicle with Arizona tag# 176LRJ (expired in 2004).**
- **Repair of broken fencing around the property.**
- **Cut over height grass and weeds in the back/side yard landscape.**

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 \$2386.00. 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















