

Staff Summary Report



Hearing Officer Hearing Date: September 7, 2010

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 Haws Property located at 1872 East Magdalena Drive.

DOCUMENT NAME: 20100907cdr101 **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 **HAWS PROPERTY (PL100233/ABT10017/CE101250)** (Jack Scofield, Inspector; Jeffrey Haws, property owner) located at 1872 East Magdalena Drive in the R1-7, Single Family Residential District.

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

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

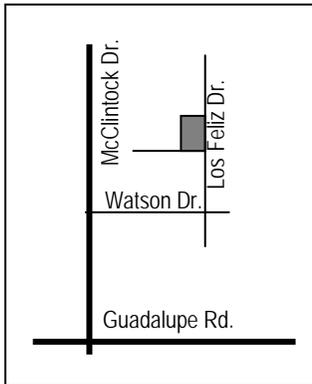
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of Abatement Proceedings

ADDITIONAL INFO:



Code Compliance is requesting approval abatement assessments for the Haws Property located at 1872 East Magdalena Drive in the R1-7, Single Family Residential District. The property is generally located northeast of McClintock Drive and Guadalupe 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 CE101250: Abatement assessments for high grass, weeds and green pool.

Staff is requesting authorization of multiple abatements, for an open period not to exceed 180 days from this abatement order, by the Hearing Officer to address future issues.

An emergency abatement has been performed on this property. Staff is seeking approval of the assessments associated with the abatement.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-15. Code Compliance Report
- 16-18. Pre-Abatement Photographs
- 19-20. Post Abatement Photographs

COMMENTS:

Code Compliance is requesting approval to abate the Haws Property located at 1872 East Magdalena Drive in the R1-7, Single Family Residential District. This case was initiated on April 9, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Jeffrey Haws, regarding violations of the Tempe City Code.

Mr. Haws has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to plants and weeds in excess of 12" in height, dead landscape, and a swimming pool that presents a health hazard.

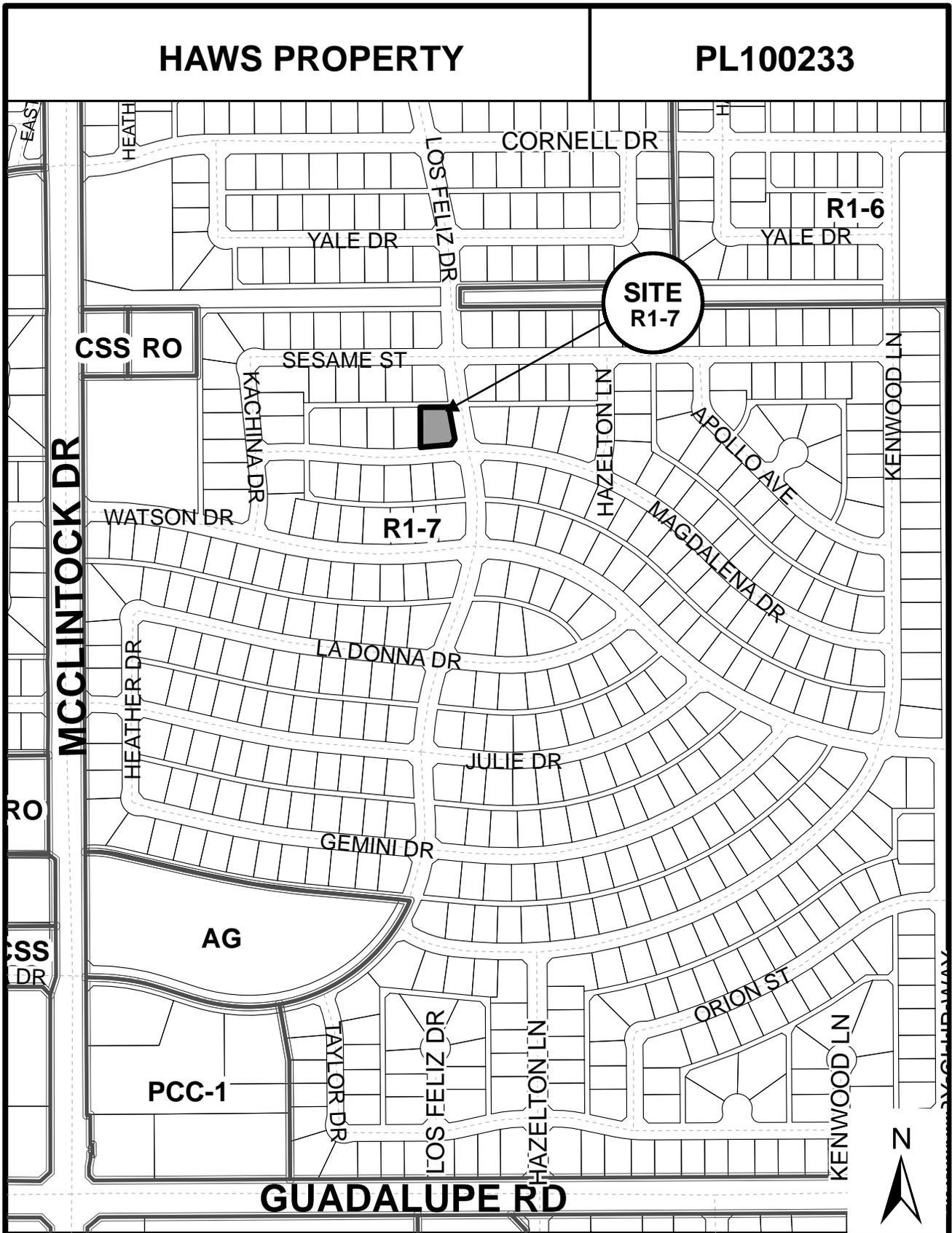
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

HAWS PROPERTY

PL100233



Location Map



HAWS PROPERTY (PL100233)

DATE: July 26, 2010
TO: Jeff Tamulevich, Code Compliance Manager
FROM: Jack Scofield, Code Inspector
SUBJECT: CE101250, Haws Residence Abatement

LOCATION: 1872 E. Magdalena Dr. Tempe, AZ 85284

LEGAL: Continental East Unit Six

PARCEL: 301-01-118

OWNER: Haws Jeffrey L
841 NW Crouchen St.
Salem, OR 97304

FINDINGS:

04/09/2010 The Code Compliance Division received a complaint concerning over height grass and weeds

04/10/2010 Inspector Don Alexander inspected property and found over height grass and weeds in the front and side yard. Notice to comply mailed to property owner

04/27/2010 Inspector Don Alexander sent 2nd notice to comply to property owner

05/18/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property.

05/09/2010 Inspector Don Alexander sent final notice to comply to property owner

05/24/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

05/26/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

06/01/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

06/07/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

06/14/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property.

0629/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

06/30/2010 Case re-assigned to Inspector Jack Scofield

07/01/2010 Inspected property and found over height grass and weeds in the front and rear yards and a deteriorated pool with green stagnant water. Appears to have been a fire in the dead vegetation in front yard. Code Compliance Manager Jeff Tamulevich instructed to move forward with an emergency abatement.

07/06/2010 Posted final notice to comply

07/13/2010 Posted emergency abatement notification on property

07/21/2010 The Code Compliance Division received an additional complaint concerning over height grass and weeds, and a deteriorated pool on property

07/23/2010 Emergency abatement performed on property. All landscape and pool violations corrected.

RECOMMENDATIONS:

I recommend authorization for assessment for the work already performed to abate the nuisance violations at the property at 1872 E Magdalena Dr, 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. Haws had been given ample time to come into compliance and maintain the property. There has been no indication Mr. ^{Haws} ~~Clymer~~ will come into compliance. The property represented a fire and health hazard and an eyesore to the community.

I also recommend the authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Respectfully submitted,

Jack Scofield
Code Inspector II

ACTION TAKEN:

NAME

DATE:

APPROVED
[Signature]
7 26 10



**DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

04-10-2010

HAWS, JEFFERY L
1872 E MAGDALENA DR
TEMPE AZ 85283

Case#: CE101250
Site Address: 1872 E MAGDALENA DR

SITE REINSPECTION ON OR AFTER: 04/23/2010

This is a notice to inform you that this site was inspected 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	Uncultivated plants, weeds, tall grass, or growth higher than 12 inches

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.8	Please cut down and remove the overheight/weeds and grass located within the front/bothside yards (along the eastside block wall) to avoid a \$150.00 ticket.
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Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

**Donald Alexander
Code Inspector II**

**Direct: 480-305-8077
Code Compliance: (480)350-8372
Email: donald_alexander@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.

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

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.



**DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

04-20-2010

HAWS, JEFFERY L
1055 W BASELINE RD APT 2084
MESA AZ 85210-9508

Case#: CE101250
Site Address: 1872 E MAGDALENA DR

SITE REINSPECTION ON OR AFTER: 04/27/2010

This is a notice to inform you that this site was inspected 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.

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Donald Alexander
Code Inspector II

Direct: 480-305-8077
Code Compliance: (480)350-8372
Email: donald_alexander@tempe.gov

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**DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

04-27-2010

HAWS, JEFFERY L
1055 W BASELINE RD APT 2084
MESA AZ 85210-9508

Case#: CE101250
Site Address: 1872 E MAGDALENA DR

SITE REINSPECTION ON OR AFTER: 05/18/2010

This is a notice to inform you that this site was inspected 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	Uncultivated plants, weeds, tall grass, or growth higher than 12 inches

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

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Donald Alexander
Code Inspector II

Direct: 480-305-8077
Code Compliance: (480)350-8372
Email: donald_alexander@tempe.gov

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

07-07-2010

HAWS, JEFFERY L
1872 E MAGDALENA DR
TEMPE AZ 85283

Case#: CE101250
Site Address: 1872 E MAGDALENA DR

SITE REINSPECTION ON OR AFTER: 07/13/2010

This is a notice to inform you that this site was inspected on 07/06/2010 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, weeds, and dead vegetation from gravel area of front, side, and rear yard landscape. Also, cut overheight grass and weeds from other areas of front, side, and rear yard
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>

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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.

CASE # CE101250



City of Tempe
P. O. Box 5002
Tempe, AZ 85280
www.tempe.gov
(480) 350-8372
(480) 858-2278 (fax)

Neighborhood Enhancement Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE IMMEDIATE THREAT TO THE HEALTH OR SAFETY OF THE PUBLIC

DATE MAILED: 07/13/2010

DATE POSTED TO THE PROPERTY: 07/13/2010

**TO:
HAWS, JEFFERY L
1872 E MAGDALENA DR
TEMPE AZ 85283**

CC:

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

LEGAL: CONTINENTAL EAST UNIT SIX

LOCATION: 1872 E. MAGDALENA DR TEMPE, AZ 85283

This office will abate this public nuisance in accordance with Section 21-53 and Resolution 2006.41, III B.8, of the Tempe City Code by removal and repair of:

- 1. REMOVE GRASS, WEEDS, AND DEAD VEGETATION FROM GRAVEL AREA OF FRONT, SIDE, AND REAR YARD LANDSCAPE. CUT OVERHEIGHT GRASS AND WEEDS FROM OTHER AREAS OF THE FRONT, SIDE, AND REAR YARDS.**
- 2. RESTORE POOL WATER TO CLEAN AND CLEAR CONDITION**

City of Tempe Code 21-3-B-8 Prohibits 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, section 21-3.b.16 prohibits any swimming pool, architectural pool or spa that creates a health hazard, harbors insect infestation or presents a deteriorated appearance and requires that a pool be equipped with self-closing, self-latching gate(s), or padlocked at all times.

Page 2 of 2

As owner of the property, you have **FIVE (5)** days after receipt of this letter to abate or correct the violation. If the violations have not been corrected within this time period, our office will proceed with the abatement process. The necessary work will be performed at the expense of the property owner. The cost of this work will be **\$917.00**. 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

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: JACK SCOFIELD
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL PLUS 0 PAGE(S)

DATE: 7-5-2010 TIME: _____ A.M. 2:15 P.M.

PROPOSAL

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

ADDRESS: 1872 E. MAGDELANA TEMPE, AZ.

1. MOW AND REMOVE WEEDS & DEBRIS FROM FRONT & BACK YARDS. 36 MAN HRS @ \$22./HR	\$792.00
2. PUMP POOL	<u>\$125.00</u>
TOTAL COST FOR ABOVE ITEMS	\$917.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON









