

Staff Summary Report



Hearing Officer Hearing Date: July 7, 2009

Agenda Item Number: 12

SUBJECT: This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Division to abate public nuisance items at the **LOPEZ RESIDENCE (PL090208)** located at 3829 South Roosevelt Street.

DOCUMENT NAME: 20090707dsng05 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **LOPEZ RESIDENCE (PL090208/ABT09016)** (Jesus Amador Lopez, property owner) Complaint CE091879 located at 3829 South Roosevelt Street in the R1-6, Single Family Residential District.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

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

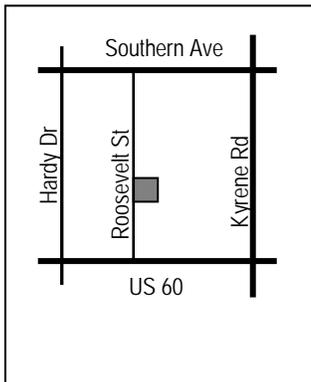
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO:



The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **LOPEZ RESIDENCE (PL090208/ABT09016)** (Jesus Amador Lopez, property owner) Complaint CE091879 located at 3829 South Roosevelt Street in the R1-6, Single Family Residential District. The residence is located southwest of the intersection of Southern Avenue and Kyrene Road. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends authorizing abatement of this property.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-10. Neighborhood Enhancement Report
- 11-12. Neighborhood Enhancement Photos

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **LOPEZ RESIDENCE (PL090208/ABT09016)** (Jesus Amador Lopez, property owner) Complaint CE091879 located at 3829 South Roosevelt Street in the R1-6, Single Family Residential District. The residence is located southwest of the intersection of Southern Avenue and Kyrene Road. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Jody Benson, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

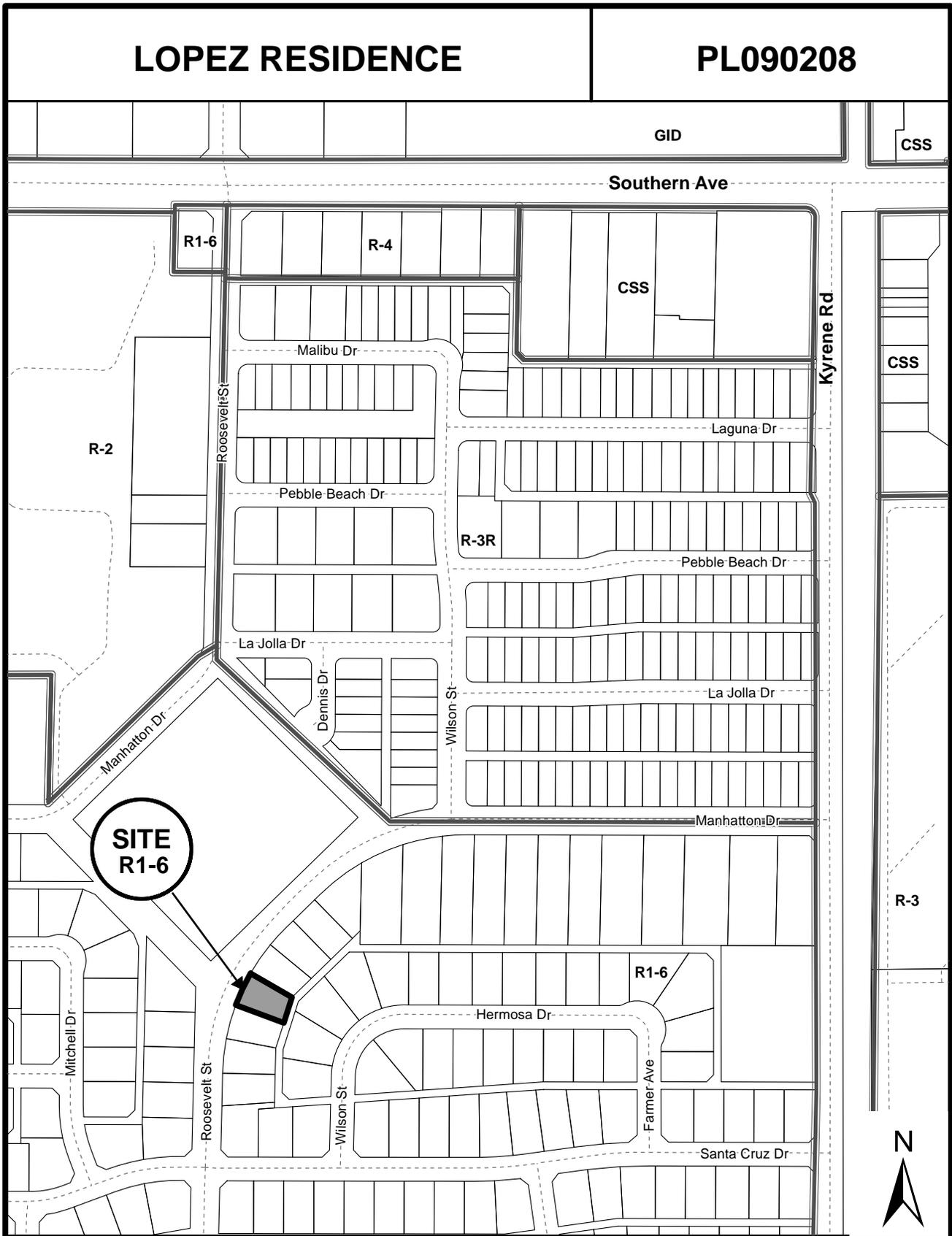
Staff recommends authorizing abatement of this property.

HISTORY & FACTS: See attached memo from the Neighborhood Enhancement Division.

DESCRIPTION: Owner – Jesus Amador Lopez
Applicant – Jody Benson, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot Area – 6,723 s.f. / .15 acres
Building Area – 1,288
Year of Construction – 1971

LOPEZ RESIDENCE

PL090208



Location Map



LOPEZ RESIDENCE (PL090208)

DATE: June 9, 2009
TO: Jan Koehn, Neighborhood Enhancement Administrator
FROM: Jody Benson, Code Inspector
SUBJECT: Request for Authorization to Abate Complaint CE091879

COMPLAINT: CE091879

LOCATION: 3829 S. Roosevelt Street, Tempe, AZ 85282

LEGAL: LOT 682, OF KNOELL UNIT THREE-A, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED BOOK 136 OF MAPS, PAGE 44.

OWNER: Jesus Amador Lopez
3829 S. Roosevelt Street
Tempe, AZ 85282

FINDINGS:

03/12/09 Proactive complaint for deteriorated landscape opened at 3829 S. Roosevelt after finding the landscape characterized by over height grass and weeds as well as large portions of the yard were bare dirt and no longer maintained free of uncontrolled growth. Sent a final notice for the landscape due to a history of similar violations at the location. I also sent Habitual Offender notice for a citation that was paid on 09/05/08 for deteriorated landscape.

The house appears vacant however I could not find any indications that the home is in foreclosure.

04/14/09 Found no changes at the property. Attempted to contact the owner by telephone, but could only leave a message.

04/15/09 Inspector Andres Lara-Reyes spoke to a female that identified herself as Christina Saragosa, wife of Jesus Amador Lopez. She stated that the property is in foreclosure and vacant. Andres spoke to her about allowing us to do a voluntary abatement. At her request I sent the authority to abate paperwork as well as a final notice to the address at 3829 S. Roosevelt drive as they still check the mail there.

I located the notice of trustee sale indicating the property was to be auctioned on January 22nd of 2009. The sale did not take place.

04/29/09 I found no changes in the landscape. I requested an estimate for abatement.

Inspector Andres Lara-Reyes spoke to a female Christina Saragosa at my request to see if they had completed the paperwork for the voluntary abatement. She informed him that they had already mailed in the paperwork.

05/01/09 Received an abatement estimate for \$198.00 from Jack Harrington Inc. authorized abatement contractor for the City of Tempe.

05/26/09 I inspected the property and found no change. I have not received any forms from Jesus Amador Lopez regarding the voluntary abatement. I took photographs of the property to begin abatement proceedings.

06/04/09 Sent and posted a notice of intent to abate for the 07/07/09 hearing.
06/09/08 Submitted request to abate the violations to Tempe Development Services.

COMPLAINT HISTORY

The following history reflects all valid complaints on this property since Laura Young established ownership of 3829 S. Roosevelt Street in December of 2006.

CE075094 **09/05/07 through 11/03/08** Complaint for deteriorated landscape. It took two months to gain compliance. Kristen Battafarano was the inspector.
CE081770 **03/10/08 through 06/24/09** Complaint for deteriorated landscape resulting in a citation being issued and subsequently the owner failed to appear on the citation. The citation was paid on 09/05/08. It took over three months to gain compliance. Jody Benson was the inspector.

RECOMMENDATIONS:

3829 S. Roosevelt Street is a vacant home that is in foreclosure. The property was set for auction on January 22nd, 2009 and that sale was postponed.

There has been only two (2) prior complaints for 3829 S. Roosevelt Street Drive dating back to 2007 for deteriorated landscape.

The home continues to be in violation of Tempe City Code 21-3(b) (8) for Deteriorated Landscape.

Without the intervention of abatement the property at 3829 S. Roosevelt Street 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.

Jesus Amador Lopez 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

CASE # CE091879



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

Notice Delivered to:

JESUS AMADOR LOPEZ
4713 E CHAMBERS
PHOENIX, AZ 85040

JESUS AMADOR LOPEZ
3829 S. ROOSEVELT STREET
TEMPE, AZ 85282

This notice to comply is to inform you that on 03/12/09, the property located at 3829 S. ROOSEVELT STREET, 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 03/30/09 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 CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE FRONT and/or SIDE YARD LANDSCAPE(S).
2. PLEASE FILL IN THE GRASS IN THE BARE DIRT AREAS OF THE FRONT YARD.
a. AS AN OPTION YOU MAY INSTALL A FORM OF ACCEPTABLE AND RECOGNIZABLE LANDSCAPE. THE LANDSCAPE COULD CONSIST OF BARE DIRT MAINTAINED FREE OF VEGETATION, GRAVEL, GRASS, DESERT OR A COMBINATION OF EACH WITH DEFINED BORDERS OR A RECOGNIZED FORM OF LANDSCAPE OF YOUR CHOOSING.
3. PLEASE MAINTAIN THE LANDSCAPE IN ACCORDANCE TO TEMPE CITY CODE 21-3(B)(8). ANY OTHER VIOLATION OF THIS CODE IN THE NEXT 12 MONTHS COULD RESULT IN IMMEDIATE CITATION(S) FOR DETERIORATED LANDSCAPE AND PER TEMPE CITY CODE 21-43(D).
4. YOU ARE ELIGIBLE FOR HABITUAL OFFENDER VIOLATION(S) UNTIL 09/05/09.

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.

Violation of the Tempe City Code, Chapter 21-4--b

It shall be a separate citable offense to be a habitual offender of this code.

Habitual offender: means any person that on at least one prior occasion within a twelve (12) month period of adjudication has had:

1. At least one conviction, either civil or criminal, or a default judgment entered, of a violation of this chapter; or
2. Has had abatement action approved against any property the habitual offender owns.

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.

Tempe City Code, Chapter 21-43-e

Notification—habitual offender. Complaints on properties owned by habitual offenders will proceed through an expedited process. The expedited process applies to any person who meets the definition of habitual offender, whether or not the person has been convicted under § 21-4(b). Habitual offenders are not entitled to a time period to cure infractions or other written or formal notice of violations. Upon discovering that a property is owned by a habitual offender, the code inspector may:

1. Initiate court or abatement action without providing written or formal notice to the responsible party;
2. Issue a formal notice of violation or civil infraction citation, including notification that the responsible party has been deemed habitual offender; or
3. Initiate abatement action or criminal proceedings against the responsible party.

DUE TO A HISTORY OF SIMILAR VIOLATIONS 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.

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.

Code Inspector: JODY BENSON

Phone Number: (480)350-8671

E-mail: JODY_BENSON@TEMPE.GOV

CASE # CE091879A



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Code Inspector: JODY BENSON

Phone Number: (480)350-8671

E-mail: JODY_BENSON@TEMPE.GOV

CASE # CE091879



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 06/04/09

TO: JESUS AMADOR LOPEZ U.S. BANK NATIONAL ASSOCIATION OLD REPUBLIC
3829 S. ROOSEVELTSTREE 4708 MERCANTILE DRIVE NORTH DEFAULT MANAGEMENT SVCS.
TEMPE, AZ 85282 FORT WORTH, TX 76137 PO BOX 250
ORANGE, CA 92856-6250

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

LEGAL DESCRIPTION: LOT 682, OF KNOELL UNIT THREE-A, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED BOOK 136 OF MAPS, PAGE 44.

LOCATION: 3829 S. Roosevelt Street, 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 07/07/09. 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:

Cut all over height grass and weeds in the front and back 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 \$198.00. 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

JACK HARRINGTON
6828 N. 25TH DR., #B
PHOENIX, AZ 85017
TEL: (602) 446-2630
FAX : (602) 347-5487
EMAIL: JACKHBOARDUPS@YAHOO.CO
PROPOSAL

THE FOLLOWING DOCUMENT IS FOR:

NAME: JODY

FIRM: CITY OF TEMPE CODE COMPLIANCE

DOCUMENT EMAIL ON:

DATE: 5/1/09 TIME: 11:35 A.M. P.M.

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK AT FOR THE CITY OF TEMPE
UNDER CONTRACT # T08-092-02

ADDRESS: 3829 S. ROOSEVELT TEMPE, AZ.

1. CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE FRONT AND
SIDE YARD/S.
2. CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE BACK YARD

3 MEN FOR 3 HRS = 9 MAN HRS@ \$22./HR \$198.00

TOTAL \$ 198.00

THANK YOU



JACK HARRINGTON

ACCEPTANCE



