

# Staff Summary Report



Hearing Officer Hearing Date: November 17, 2009

Agenda Item Number: 8

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items located at the **MECRAY AND SCHENDEL PROPERTY** located at 1123 West 9<sup>th</sup> Street.

**DOCUMENT NAME:** 20091117dssl02

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MECRAY AND SCHENDEL PROPERTY (PL090392/ABT09034)** (Mecray & Schendel Appraisal Group LLC, property owner) Complaint CE084920 located at 1123 West 9<sup>th</sup> Street in the R1-6, Single Family Residential District.

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)

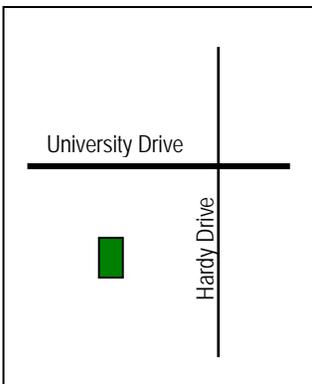
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval

**ADDITIONAL INFO:** The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **MECRAY AND SCHENDEL PROPERTY (PL090392/ABT09034)** (Mecray & Schendel Appraisal Group LLC, property owner) Complaint CE084920 located at 1123 West 9<sup>th</sup> Street in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends the authorization of abatement of this property.



**PAGES:**

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

**ATTACHMENTS:**

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

**COMMENTS:**

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **MECRAY AND SCHENDEL PROPERTY (PL090392/ABT09034)** (Mecray & Schendel Appraisal Group LLC, property owner) Complaint CE084920 located at 1123 West 9<sup>th</sup> Street in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Andres Lara, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

Staff recommends the authorization of abatement of this property.

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

**DESCRIPTION:** Owner – Mecray & Schendel Appraisal Group LLC  
Applicant – Andres Lara, COT Neighborhood Enhancement  
Existing Zoning – R1-6, Single Family Residential District

# MECRAY AND SCHENDEL PROPERTY

PL090392



Location Map



**MECRAY AND SCHENDEL RESIDENCE (PL090392)**

**DATE:** 10/08/2009  
**TO:** Michael Spencer, Senior Code Inspector  
**FROM:** Andres Lara  
**SUBJECT:** Jay Mecray and Michael Schendel Property Abatement, CE084920.

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**LOCATION:** 1123 W 9th St, Tempe, AZ 85281

**LEGAL:** Book 124, Map 61, Parcel 143, as recorded with the Maricopa County Assessor

**OWNER:** Mecray and Schendel Appraisal Group LLC  
c/o Jay Mecray and Michael Schendel  
855 E Warner Rd No F-2  
Chandler, AZ 85225

**FINDINGS:**

- 07/21/2008 Property was inspected and found to have over height grass and weeds in the gravel of the front yard landscape and a deteriorated swimming pool in the backyard. Property is also not registered as a rental. Notice was sent to the owners.
- 08/19/2008 Grass and weeds have been removed from the gravel of the front yard. No change in the condition of the deteriorated swimming pool.
- 09/04/2008 No change in the condition of the deteriorated swimming pool. Property is still not registered as a rental. First citation was issued for these violations. Grass and weeds are again starting to grow through the front yard gravel landscape.
- 10/12/2008 Swimming pool has been drained. Over height grass and weeds growing in the gravel of the front yard landscape.
- 12/11/2008 No change in the condition of the front yard landscape. Property still has not been registered as a rental.
- 02/11/2009 No change in the condition of the front yard landscape. Property still has not been registered as a rental. Final notice was sent to the property owner.
- 03/12/2009 Grass and weeds have been cleared from the front yard gravel landscape. A letter was sent to the Property Management Company concerning the rental registration.
- 06/23/2009 Grass and weeds growing in the gravel of the front yard landscape.

- 07/01/2009 Left door hanger for tenants to call back.
- 07/22/2009 No change in the condition of the front yard landscape.
- 08/19/2009 No change in the condition of the front yard landscape. Final notice issued to the tenant.
- 10/06/2009 Swimming pool is again in a deteriorated condition. A notice of intent to abate will be filed.

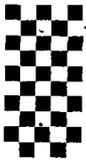
**HISTORY:**

- 05/19/2000 – 06/08/2000 Over height grass or weeds.
- 05/21/2004 – 07/08/2004 Deteriorated landscape.
- 08/31/2005 – 09/14/2005 Green pool.
- 10/10/2005 – 10/13/2006 Excessive people.
- 03/28/2007 – 04/17/2007 Unsecured pool.
- 08/14/2007 – 10/22/2007 Deteriorated landscape and unregistered rental.
- 05/20/2008 – 06/19/2008 Deteriorated landscape and unregistered rental.

**RECOMMENDATIONS:**

Three notices and one citation were issued to the property owners Jay Mecray and Michael Schendel concerning the violations at the residence with minimum response. Jay Mecray and Michael Schendel have failed to correct the green pool violation and staff feels that the only solution to rectify the problems at the residence is to conduct an abatement of the property. I therefore request the City of Tempe Development Services Abatement Hearing Officer for authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code.

Respectfully submitted,  
Andres Lara  
City of Tempe Code Inspector



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: ANDRES  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 3 PAGE(S)

DATE: 10-~~6~~09 TIME: 3:30 A.M. P.M.

**PROPOSAL**

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

ADDRESS: 1123 W 9 ST

|  |           |
|--|-----------|
| 1. PUMP POOL AND CLEAN OUT -HAUL AWAY DEBRUS | \$150.00  |
| 2 CLEAN YARDS 2 MEN 8 HOURS                  | 352.00    |
| 3. TEMPE POLICE OFFICER 8 HOURS              | 400.00    |
|  | -----     |
| TOTAL  | \$ 902.00 |

THANK YOU

JACK HARRINGTON

ACCEPTANCE

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

Code Compliance Division

## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: October 8, 2009

TO: Mecray and Schendel Appraisal Group LLC  
c/o Jay Mecray and Michael Schendel  
855 E Warner Rd No F-2  
Chandler, AZ 85225

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

**LEGAL:** Book 124, Map 61, Parcel 143, as recorded with the Maricopa County Assessor.

**LOCATION:** 1123 W 9th 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 November 17, 2009. 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:

**Draining green pool. (Ref - TCC 21-3-b- 16)**

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 \$902.00. 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 Enforcement Officer: Andres Lara

Phone Number 480-858-2289



CASE #CE084920

City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances  
FINAL NOTICE

MECRAY & SCHENDEL APPRAISAL GROUP LLC  
C/O: JAY MECRAY OR MICHAEL SCHENDEL  
855 E WARNER RD #F-2  
CHANDLER AZ, 85225

RENEE RASTI-LARI  
1123 W 9<sup>TH</sup> ST  
TEMPE, AZ 85281

NOTICE TO COMPLY

This notice to comply is to inform you that on 08-19-2008, the property located at 1123 W 9<sup>TH</sup> ST was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on **09-07-2009** 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).

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.

*Deteriorated* or *deterioration* means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

*Slum-like* means the unsightly condition of a building, structure or premises characterized by deterioration or other similar conditions regardless of the condition of other properties in the neighborhood.

Violation of the Tempe City Code, Chapter 21-38 (h)

*Landscaping.* Every rental housing unit shall have landscaping in all yard areas which are visible from a public street, alley or sidewalk or a neighboring property. Such landscaping shall be installed and maintained so as to enhance the appearance and value of the property on which it is located and shall not present a deteriorated or slum-like appearance.

**Please take the following corrective action by 09-07-2009.**

Required Correction(s):

- **Please completely remove ALL grass and weeds in front and side yard gravel/rock landscaping. Remove all growth around or in edges, trees, walls, planters and side walk cracks. No weeds or grass may remain in the gravel/rock landscaping. Please continue to maintain.**

**IF THE ABOVE IS NOT COMPLETED BY 09-07-2009, THE OWNER AND TENANT MAY RECEIVE A \$150.00 CITATION EACH.**

**ANOTHER VIOLATION OF THIS SECTION WITHIN THE NEXT 12 MONTHS CAN RESULT IN AN IMMEDIATE CITATION AND FINE.**

*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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**Civil and Criminal Penalties**

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1<sup>st</sup> occurrence \$350 dollars per violation, 2<sup>nd</sup> occurrence \$650 dollars per violation, 3<sup>rd</sup> occurrence \$950 dollars per violation.

Section 21-4 (B), Habitual Offender: 1<sup>st</sup> occurrence \$500 dollars + sum of other fines, 2<sup>nd</sup> occurrence \$1000 dollars + sum of other fines, 3<sup>rd</sup> 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 Enforcement Inspector: CHANTZ TIEMAN**

**Phone Number 480-350-8146**



**City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances**

**J. SCOTT & COMPANY  
2039 S. MILL AVE, SUITE A  
TEMPE, AZ 85282**

**NOTICE TO COMPLY**

This notice to comply is to inform you that on 02-11-2009, the property located at 1123 W 9<sup>TH</sup> ST was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on **02-27-2009** 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).

**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.

**Please take the following corrective action by 02-27-2009.**

**Required Correction(s):**

- **Please completely remove ALL grass and weeds in front and side yard gravel/rock landscaping. Remove all growth around or in edges, trees, walls, planters and side walk cracks. No weeds or grass may remain in the gravel/rock landscaping. Please continue to maintain.**

*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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**Civil and Criminal Penalties**

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Code Enforcement Inspector: CHANTZ TIEMAN

Phone Number 480-350-8146



City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances

MECRAY & SCHENDEL APPRAISAL GROUP LLC  
C/O: JAY MECRAY OR MICHAEL SCHENDEL  
855 E WARNER RD #F-2  
CHANDLER AZ, 85225

JERMAINE WHEELER  
1123 W 9<sup>TH</sup> ST  
TEMPE, AZ 85281

**NOTICE TO COMPLY**

This notice to comply is to inform you that on 07-21-2008, the property located at 1123 W 9<sup>TH</sup> ST was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on **08-07-2008** 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).

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:

Any swimming pool areas that are not enclosed as required by chapter 31 of this code; or any swimming pool, architectural pool or spa that creates a health hazard, harbors insect infestation or presents a deteriorated appearance.

**Please take the following corrective action by 08-07-2008.**

Required Correction(s):

- Please completely remove ALL grass and weeds in front and side yard gravel/rock landscaping. Remove all growth around or in edges, trees, walls, planters and side walk cracks. No weeds or grass may remain in the gravel/rock landscaping. Please continue to maintain.
- Please bring pool back to a clear blue color or completely drain pool.

*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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Civil and Criminal Penalties

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

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The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

