

Staff Summary Report



Hearing Officer Hearing Date: October 20, 2009

Agenda Item Number: 12

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 **METLIFE BANK PROPERTY** located at 1964 East Harvard Drive.

DOCUMENT NAME: 20091020ssl08

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 **METLIFE BANK PROPERTY (PL090362/ABT09027)** (Metlife Bank, property owner) Complaint 094423 located at 1964 East Harvard Drive in the R1-6, Single Family Residential District.

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

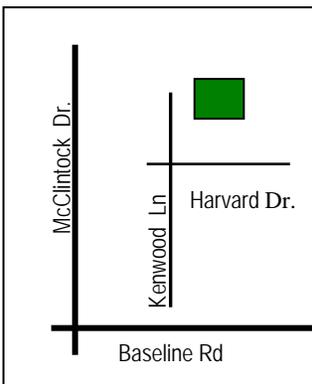
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO: The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **METLIFE BANK PROPERTY (PL090362/ABT09027)** (Metlife Bank, property owner) Complaint 094423 located at 1964 East Harvard Drive 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
- 3-21. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **METLIFE BANK PROPERTY (PL090362/ABT09027)** (Metlife Bank, property owner) Complaint 094423 located at 1964 East Harvard Drive 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 Don Alexander, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

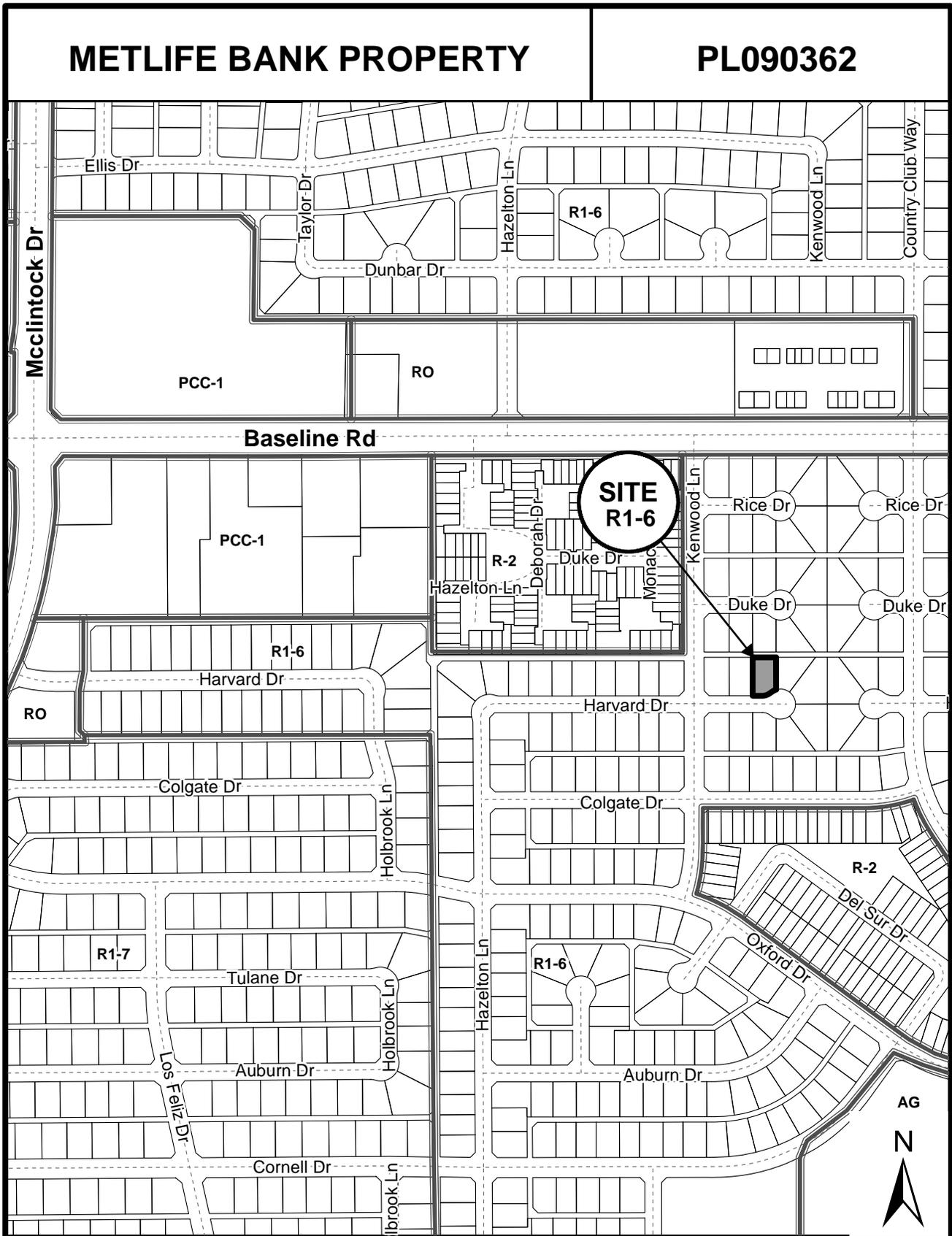
Staff recommends the authorization of abatement of this property.

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

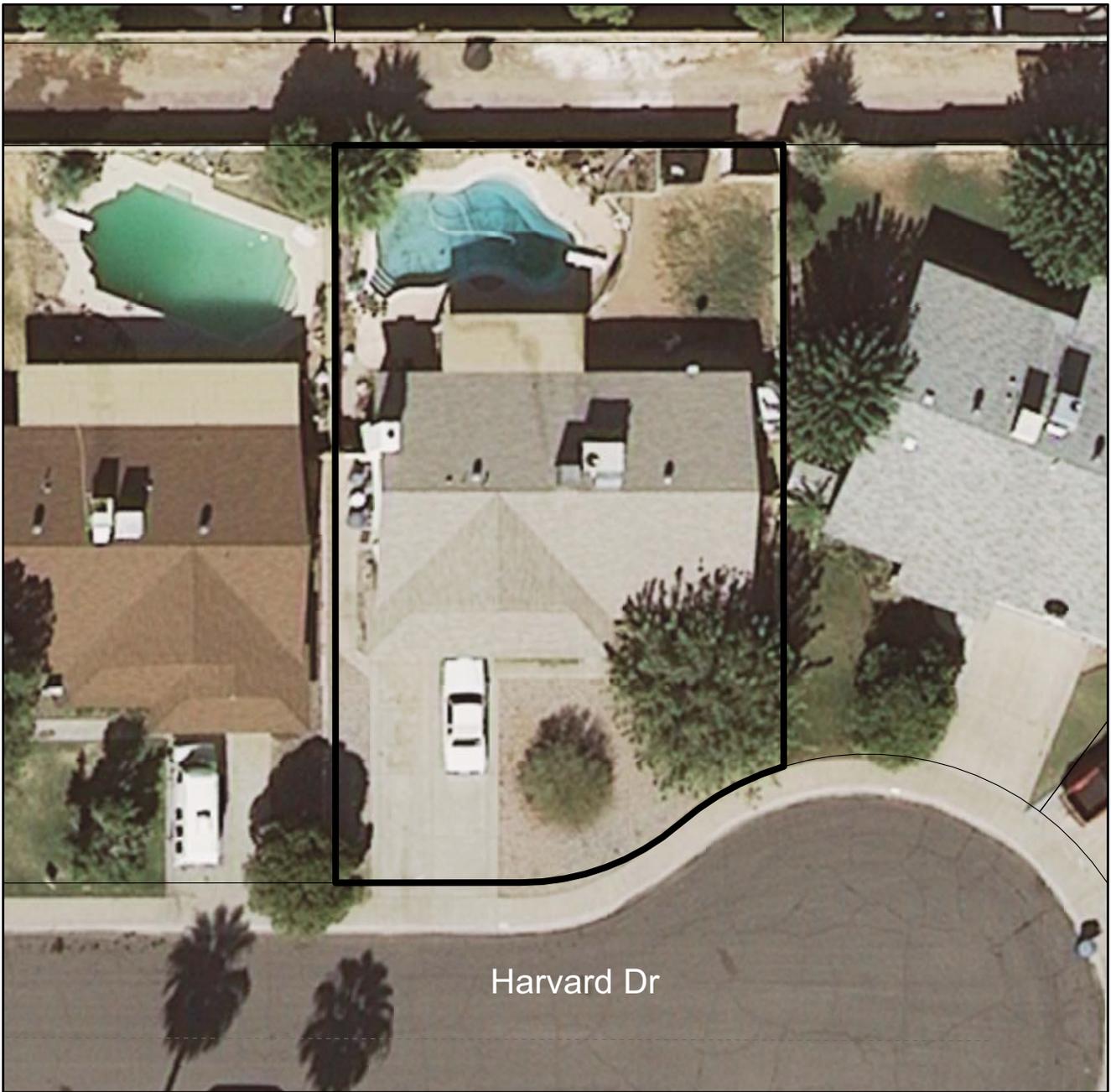
DESCRIPTION: Owner – Metlife Bank Property
Applicant – Don Alexander, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District

METLIFE BANK PROPERTY

PL090362



Location Map



METLIFE BANK PROPERTY (PL090362)

DATE: 9/16/09
TO: Michael Spencer, Senior Code Inspector
FROM: Donald Alexander
SUBJECT: Request to Abate Nuisance Violations – Reference Complaint
#CE094423

LOCATION: 1964 E. Harvard Drive, Tempe, AZ 85283
LEGAL: Parcel 301-01-663, as recorded with the Maricopa County Assessor
OWNER: First Horizon Home Loans in care of Metlife Loans (Metlife Bank)

FINDINGS:

7/23/09 The Neighborhood Enhancement Division received a complaint on the above property concerning the overheight weeds and a green pool.

8/15/09 The foreclosed property was inspected and found to have overheight weeds within all yards, litter/debris of dead leaves, a discarded freezer, and other misc. items scattered within all yards, and a green pool within the rear yard. A notice to comply was sent to the property owner.

8/28/09 The property was reinspected with no change in its condition. A notice to comply was sent to the property owner.

9/11/09 The property was inspected with no change in its condition. The Neighborhood Enhancement Division filed for an Abatement Hearing.

9/17/09 A notice to abate was mailed to the property owner and posted to the property.

RECOMMENDATIONS:

I recommend the approval for abatement at 1964 E. Harvard Drive., which is owned by First Horizon Home Loans in care of MetLife Home Loans. First Horizon Loans has made no attempt to bring the property into compliance and has shown no indication of doing so.

Respectfully submitted,
Donald Alexander

ACTION TAKEN: Referred to Hearing Officer

NAME: Michael Spencer

DATE: 9/16/09

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: Don Alexander
FIRM: CITY OF TEMPE CODE COMPLIANCE

DATE: 9-16-09 TIME: 11:30 A.M. _____ P.M.

PROPOSAL

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

ADDRESS: 1964 E. HARVARD DR. TEMPE, AZ.

PUMP POOL & CLEAN YARD OF DEBRIS & GRASS

1. PUMP POOL	\$125.00
2. CLEAN YARDS - 2 LOADS	\$240.00
3. LABOR – 32 MAN HRS @ \$22./HR	<u>\$704.00</u>
TOTAL	\$1,069.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON



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

DATE: 9/17/2009

TO: METLIFE HOME LOANS (A DIVISION OF METLIFE)
BANK NA
4000 HORIZON WAY
FORECLOSURE DEPT. #6205
IRVING, TX 75063

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

LEGAL: Parcel 301-01-663, as recorded with the Maricopa County Assessor.

LOCATION: 1964 E Harvard Drive, Tempe, Arizona 85283

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of October 20, 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 of:

Removing green water from pool or restoring water to clear, clean and safe condition. TCC 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.

Removing The overheight grass/weeds, and dead brushes or vegetation within all exterior areas of the property (front, bothside, and rear yard areas). TCC 21-3b8 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.

Remove the excessive amounts of all litter, trash, and debris of non-working and or all non-repairable items, (dead tree branches, discarded freezer, pieces of wood, plastics, glass, cans, bottles, and other misc. items) within all exterior areas of the property (front, bothside, and rear yard areas). TCC 21-3-b-1 prohibits any 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, or anything

whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation .

As owner of the property, you have 30 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 \$ 1069.00 . 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: DONALD ALEXANDER

Phone Number: 480-350-8077

CASE # CE094423



CODE INSPECTOR DONALD ALEXANDER
480-350-8077
E-MAIL: donald_alexander@tempe.gov
Date Mailed: 8/28/09

**METLIFE HOME LOANS (A DIVISION OF METLIFE)
BANK NA
4000 HORIZON WAY
FORECLOSURE DEPT. #6205
IRVING, TX 75063
NOTICE TO COMPLY**

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

This notice to comply is to inform you that on 8/28/09, 1964 E HARVARD DR TEMPE AZ 85283 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 9/10/09 or after the date indicated 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).

- (a) 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.
- (b) A nuisance includes any one or more of the following conditions:

TS# AZ-09-246345-CL ORDER # 3129313 LOAN # 0554076146

- 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, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation .
- 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 pools areas that are not enclosed by a fence of at least five (5) feet in height and equipped with a self-closing and self-latching latch 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.

Please take the following corrective action

Required Correction(s):

- PLEASE REMOVE THE LITTER/DEBRIS OF A FREEZER, PAPERS, PLASTICS, AND OTHER MISC. ITEMS LOCATED WITHIN ALL YARDS TO AVOID A \$150.00 TICKET/CITATION.

- PLEASE REMOVE THE DEAD BUSHES AND PLANTS WITHIN THE ALL YARDS, AND FOR THE OVERHEIGHT DEAD WEEDS/GRASSES WITHIN ALL YARDS TO AVOID A \$150.00 TICKET/CITATION.
- PLEASE REMOVE THE GREEN ALGAE FROM REAR YARD POOL TO AVOID A \$350.00 TICKET/CITATION.

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.

Habitual Offender 21-4(b) 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.

Sec. 21-43. Notice to comply.

(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.

(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 a habitual offender; or
- (3) Initiate abatement action or criminal proceedings against the responsible party.

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.

CE21-1 07/18

CASE # CE094423



CODE INSPECTOR DONALD ALEXANDER
480-350-8077
E-MAIL: donald_alexander@tempe.gov
Date Mailed: 8/28/09

QUALITY LOAN SERVICE CORP
2141 5TH AVE
SAN DIEGO, CA 92101
NOTICE TO COMPLY

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TS# AZ-09-246345-CL ORDER # 3129313 LOAN # 0554076146

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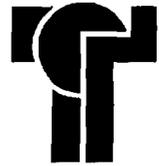
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The city has authority to abate the violation should the owner neglect, fail, or refuse to correct the violation within (30) days and to assess a lien against the property for cost of abatement.

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

CE21-1 07/18

CASE # CE094423



CODE INSPECTOR DONALD ALEXANDER
480-350-8077
E-MAIL: donald_alexander@tempe.gov
Date Mailed: 8/15/09

**METLIFE HOME LOANS (A DIVISION OF METLIFE)
BANK NA
4000 HORIZON WAY
FORECLOSURE DEPT. #6205
IRVING, TX 75063
NOTICE TO COMPLY**

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TS# AZ-09-246345-CL ORDER # 3129313 LOAN # 0554076146

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CODE INSPECTOR DONALD ALEXANDER
480-350-8077
E-MAIL: donald_alexander@tempe.gov
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2141 5TH AVE
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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.

Habitual Offender 21-4(b) 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.

Sec. 21-43. Notice to comply.

- (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.
- (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 a habitual offender; or
 - (3) Initiate abatement action or criminal proceedings against the responsible party.

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.

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