

Staff Summary Report



Hearing Officer Hearing Date: October 20, 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 **MILES RESIDENCE** located at 702 East Taylor Street.

DOCUMENT NAME: 20091020dssl04

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 **MILES RESIDENCE (PL090322/ABT09022)** (Cris Miles, property owner) Complaint 072012 located at 702 East Taylor Street in the R1-6, Single Family Residential District.

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

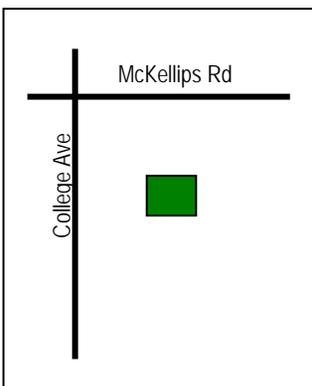
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

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 **MILES RESIDENCE (PL090322/ABT09022)** (Cris Miles, property owner) Complaint 072012 located at 702 East Taylor 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
- 3-12. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **MILES RESIDENCE (PL090322/ABT09022)** (Cris Miles, property owner) Complaint 072012 located at 702 East Taylor 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.

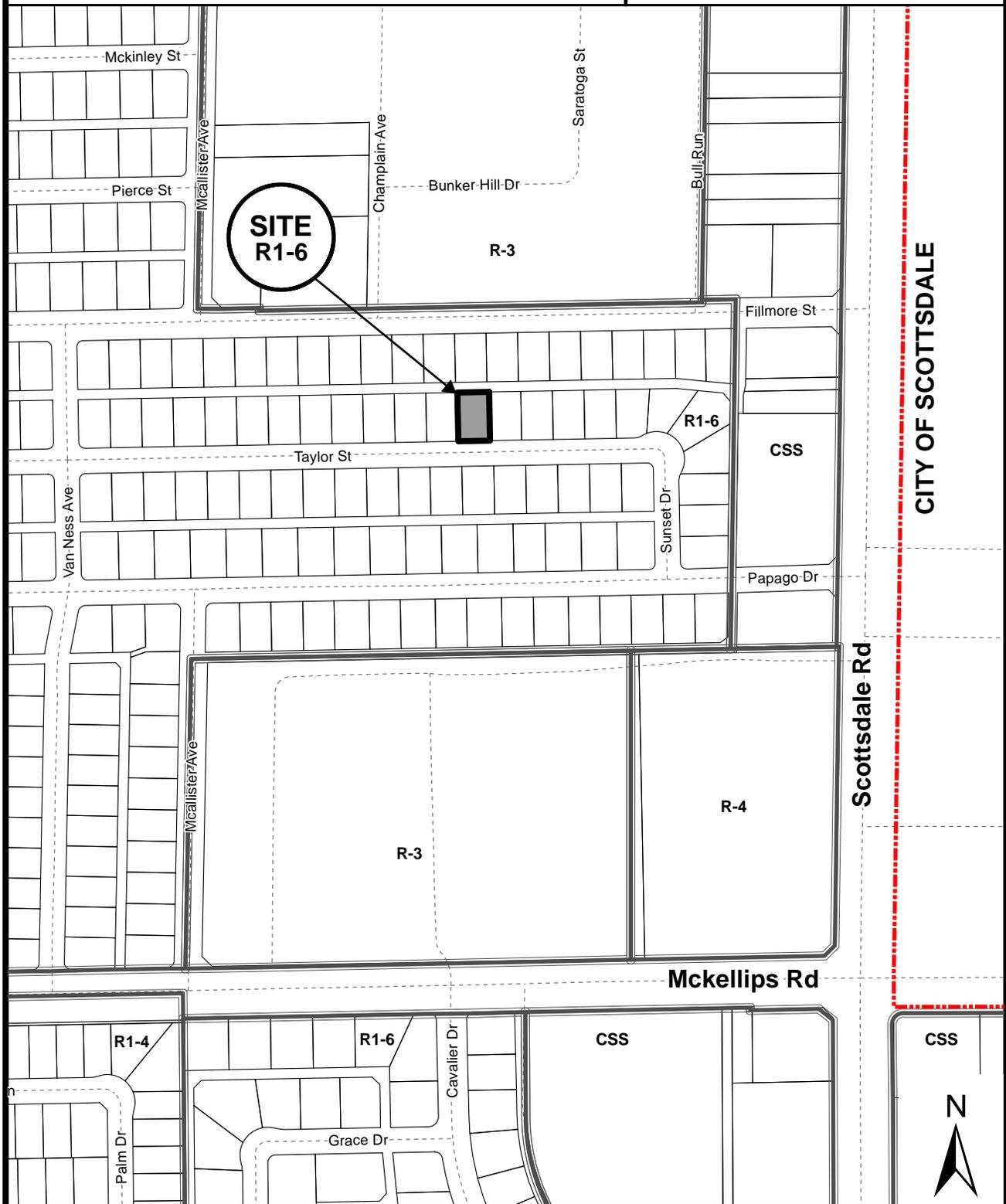
HISTORY & FACTS: See attached memo from the Neighborhood Enhancement Division.

October 6, 2009 Abatement proceedings continued to the October 20, 2009 Hearing Officer hearing due to cancellation of the October 6, 2009 hearing.

DESCRIPTION: Owner – Cris Miles
Applicant – Andres Lara, COT Neighborhood Enhancement
Existing Zoning – R1-6, Single Family Residential District

MILES RESIDENCE

PL090322



Location Map



MILES RESIDENCE (PL090322)

DATE: 08/26/2009
TO: Michael Spencer, Senior Code Inspector
FROM: Andres Lara
SUBJECT: Cris H. Miles Property Abatement

LOCATION: 702 E Taylor St, Tempe, AZ 85281

LEGAL: Book 129, Map 17, Parcel 058, as recorded with the Maricopa County Assessor

OWNER: Cris H. Miles
702 E Taylor St.
Tempe, AZ 85281

FINDINGS:

- 04/19/2007 Courtesy notice sent to owner from Pete DeMott for trash and debris and an unregistered olds cutlass in the back yard and an unregistered white Chrysler minivan in the front driveway.
- 05/21/2007 No changes, final notice sent.
- 06/27/2007 Citation issued for littered exterior areas and unregistered vehicle.
- 07/23/2008 Complaint was given to Andres Lara by Pete DeMott. Based on a complaint, an inspection was conducted by Jody Benson and Andres Lara. A new initial notice to comply was mailed to the owner to register or remove the gray Plymouth Voyager van with no license plate parked in the driveway, remove all over height grass or weeds and remove all dead growth from the tree in the front yard area, remove all trash, litter, debris, plastic bags with trash, plastic bucket and containers, vehicle and bicycle tires, boxes, unused and discarded patio furniture and all other household and miscellaneous items in the back yard area, remove the inoperable or unregistered vehicles (a gold Dodge van Colorado license plate (197-IZE) with expired tags 11/06 and a white 4 door Oldsmobile vehicle with no license plate) or install an opaque fence in the back yard area to screen it from the public view and remove or cut down to the stump all the dead trees, dead bushes and dead growth leaves in the back yard area.
- 08/06/2008 No improvements made. Piles of grass and weeds and an inoperable or unregistered vehicle in the front yard and all violations in the back yard remain. Final notice mailed.
- 08/22/2008 No improvements or changes made. All required corrections remain in violation.

- 09/10/2008 Criminal charges filed.
- 03/25/2009 Pre-trial conference scheduled for Mr. Miles was continued to allow him time to bring the property up to compliance. He was advised to contact our office to schedule a re-inspection.
- 05/04/2009 Front yard dead growth in the trees was removed. Over height weeds were trimmed but the landscape remained in violation for dead yellow grass. The same inoperable or unregistered van with no license plate remained in the driveway. Back yard dead tree branches were trimmed but lots of trash and debris remained in violation.
- 05/06/2009 Mr. Miles pleaded guilty on criminal charges and was assessed a \$300 fine.
- 08/13/2009 Web complaint received for junk, debris, inoperable or unregistered vehicles, stagnant materials and decaying plant matter in the front and back yard areas.
- 08/21/2009 Based on a web complaint observed litter, debris and an inoperable or unregistered vehicle in the front yard area. Trash, litter, debris and over height grass or weeds remain in the back yard area. No improvements have been made since the first inspection. A notice of intent to abate will be submitted, mailed and posted.

HISTORY:

- 12/18/2002 – 01/13/2003 Litter and debris.
10/22/2003 - 02/07/2005 Inoperable or unregistered vehicle.
02/08/2005 – 07/27/2006 Over height grass and weeds.

RECOMMENDATIONS:

Mr. Miles has had four notices, one citation, one pre-trial conference and was found guilty on criminal charges concerning the problems at the residence with minimum response. Mr. Miles has failed to correct the violations 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



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: August 26, 2009

TO: Cris H. Miles
702 E Taylor St.
Tempe, AZ 85281

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

LEGAL: Book 129, Map 17, Parcel 058, as recorded with the Maricopa County Assessor.

LOCATION: 702 E Taylor 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 October 6, 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:

Litter, debris, over height grass or weeds and an inoperable or unregistered vehicle in the front yard area. Trash, litter, debris and over height grass or weeds in the back yard area (Ref - TCC 21-3-b- 1, 3 and 8).

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 \$2, 728.00. 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 # CE072012



CODE INSPECTOR PETE DEMOTT
480-350-2897
E-MAIL: peter_demott@tempe.gov

CRIS H. MILES
702 E. TAYLOR ST.
TEMPE, AZ 85281

City of Tempe Code Compliance Division
Courtesy Notice
We need your help to keep our City clean

This is a courtesy notice to inform you that on 4/19/2007, 702 E. TAYLOR ST. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Section 21 of the Tempe City Code. A re-inspection will be conducted on or after the date indicated to verify compliance. If the property is brought into compliance with the code by 5/21/2007, you will not be subject to citations or fines for the violation(s). We appreciate your cooperation in this matter. For questions or further information please contact the Code Compliance Division at 480-350-8372.

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) (3) : 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.

Please take the following corrective action by 5/21/2007

Required Correction(s):

**PLEASE REMOVE ALL TRASH AND DEBRIS FROM THE BACK YARD. REMOVE THE UNREGISTERED VEHICLE FROM THE BACK YARD OR INSTALL OPAQUE FENCING TO SCREEN IT FROM THE PUBLIC RIGHT OF WAY.
PLEASE REGISTER OR REMOVE THE WHITE VAN IN THE FRONT DRIVEWAY.**

If the violations have not been corrected by this date and additional re-inspections are necessary, you may be assessed a \$75.00 re-inspection fee. Failure to comply may result in civil citation, criminal charges or abatement of the violation.

(FIRST VIOLATION/\$100.00 FINE)
(SECOND VIOLATION/\$200.00 FINE)
(THIRD VIOLATION/\$300.00 FINE)

CE21-1 06/02

CASE # CE072012



CODE INSPECTOR PETE DEMOTT
480-350-2897
E-MAIL: peter_demott@tempe.gov

CRIS H. MILES
702 E. TAYLOR ST.
TEMPE, AZ 85281

City of Tempe Code Compliance Division
SECOND AND FINAL NOTICE
We need your help to keep our City clean

This is a courtesy notice to inform you that on 5/21/2007, 702 E. TAYLOR ST. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Section 21 of the Tempe City Code. A re-inspection will be conducted on or after the date indicated to verify compliance. If the property is brought into compliance with the code by 6/21/2007, you will not be subject to citations or fines for the violation(s). We appreciate your cooperation in this matter. For questions or further information please contact the Code Compliance Division at 480-350-8372.

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) (3) : 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.

Please take the following corrective action by 6/21/2007

Required Correction(s):

PLEASE REMOVE ALL TRASH AND DEBRIS FROM THE BACK YARD. REMOVE THE UNREGISTERED VEHICLE FROM THE BACK YARD OR INSTALL OPAQUE FENCING TO SCREEN THE VIEW OF THE BACK YARD FROM THE PUBLIC RIGHT OF WAY.

PLEASE REGISTER OR REMOVE THE WHITE VAN IN THE FRONT DRIVEWAY.

FAILURE BY THE PROPERTY OWNER TO COMPLY WITH THIS NOTIFICATION WILL RESULT IN THE ISSUANCE OF A CIVIL CITATION AND FINE.

If the violations have not been corrected by this date and additional re-inspections are necessary, you may be assessed a \$75.00 re-inspection fee. Failure to comply may result in civil citation, criminal charges or abatement of the violation.

(FIRST VIOLATION/\$100.00 FINE)
(SECOND VIOLATION/\$200.00 FINE)
(THIRD VIOLATION/\$300.00 FINE)

CE21-1 06/02

CASE #CE072012



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

Mailed on Date: 07/23/08

**Cris H. Miles
702 E Taylor St
Tempe, AZ 85281**

This notice to comply is to inform you that on **07/23/08**, the property located at **702 E Taylor 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 **08/06/08** 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).

Violation of the Tempe City Code, Chapter 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.

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

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 ordinance; 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

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: 08/06/08

Required Correction(s):

- 1. Please register or remove the gray Plymouth Voyager van with no license plate parked in the driveway.**
- 2. Please remove all over height grass or weeds in the front yard area and remove all dead growth from the tree in front of the porch area.**
- 3. Please remove all trash, litter, debris, plastic bags with trash, plastic bucket and containers, vehicle and bicycle tires, boxes, unused and discarded patio furniture and all other household and miscellaneous items in the back yard area.**
- 4. Please remove the inoperable or unregistered vehicles (a gold Dodge van Colorado license plate (197-IZE) with expired tags 11/06 and a white 4 door Oldsmobile vehicle with no license plate) or install an opaque fence in the back yard area to screen it from the public view.**
- 5. Please remove or cut down to the stump all the dead trees, dead bushes and dead growth leaves in the back yard area.**

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: Andres Lara

Phone Number: 480-858-2289

E-mail: andres_lara-reyes@tempe.gov

CASE #CE072012



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

Mailed on Date: 08/06/08

**Cris H. Miles
702 E Taylor St
Tempe, AZ 85281**

This notice to comply is to inform you that on **08/06/08**, the property located at **702 E Taylor 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 **08/22/08** 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).

Violation of the Tempe City Code, Chapter 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.

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

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 ordinance; 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

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: 08/22/08

Required Correction(s):

- 1. Please register or remove the gray Plymouth Voyager van with no license plate parked in the driveway.**
- 2. Please remove all piles of grass and weeds in the front yard area and remove all dead growth from the tree in front of the porch area.**
- 3. Please remove all trash, litter, debris, plastic bags with trash, plastic bucket and containers, vehicle and bicycle tires, boxes, unused and discarded patio furniture and all household and miscellaneous items in the back yard area.**
- 4. Please remove the inoperable or unregistered vehicles (a gold Dodge van Colorado license plate (197-IZE) with expired tags 11/06 and a white 4 door Oldsmobile vehicle with no license plate) or install an opaque fence in the back yard area to screen the vehicles from the public view.**
- 5. Please remove or cut down to the stump all the dead trees, dead bushes and dead growth leaves in the back yard area.**

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.

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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: Andres Lara

Phone Number: 480-858-2289

E-mail: andres_lara-reyes@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: ANDREAS
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS ___ PAGE(S)

DATE: 8-25-09 TIME: 9:15 A.M. _____ P.M.

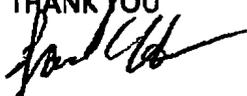
PROPOSAL

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

ADDRESS: 702 E. TAYLOR TEMPE, AZ

1. CLEAN FRONT YARDS OF DEBRIS AND LARGE AMOUNTS OF PALO VERDE TREE BRANCHES & LEAVES	
2. 1- 40 YARD DUMPSTER	\$285.00
3. 2 - TRAILER LOADS	\$100.00
4. REMOVE VEHICLE FROM PREMISES	\$135.00
5. TEMPE POLICE OFFICER 16 MAN HRS@ \$50./HR	\$800.00
4 MEN / 2 DAYS = 64 MAN HRS @ \$22./HR	<u>\$1,408.00</u>
 TOTAL	 \$2,728.00

NOTE: REVISED PROPOSAL OF 702 E. TAYLOR DONE ON 8-24-09

THANK YOU

JACK HARRINGTON

ACCEPTANCE





