

# Staff Summary Report



Hearing Officer Hearing Date: September 21, 2010

Agenda Item Number: 10

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the **PRATOR RESIDENCE** located at 2118 East Carson Drive.

**DOCUMENT NAME:** 20100921cdr101 **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 **PRATOR RESIDENCE (PL100254/ABT10022/CE101915)** (Jack Scofield, Inspector; John Prator, property owner) located at 2118 East Carson Drive in the R1-6, Single Family Residential District.

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

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

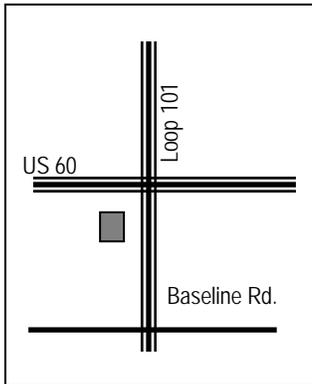
**LEGAL REVIEW BY:** N/A

**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 to abate the Prator Residence located at 2118 East Carson Drive in the R1-6, Single Family Residential District. The property is generally located northeast of Baseline Road and McClintock Drive (near the US 60 and Loop 101 intersection). 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 CE101915: Dead tree (eucalyptus) in the front yard, and rear yard fence deteriorated in appearance

**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-13. Code Compliance Report including abatement bid and photographs

**COMMENTS:**

Code Compliance is requesting approval to abate the Prator Residence located at 2118 East Carson Drive in the R1-6, Single Family Residential District. This case was initiated on May 24, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, John Prator, regarding violations of the Tempe City Code.

Mr. Prator has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to:

- 1). Remove dead tree in front yard. Stumps need to be removed or cut to ground level.
- 2). Repair rear yard fence or remove entirely. Replacement material must be compatible with existing fence.

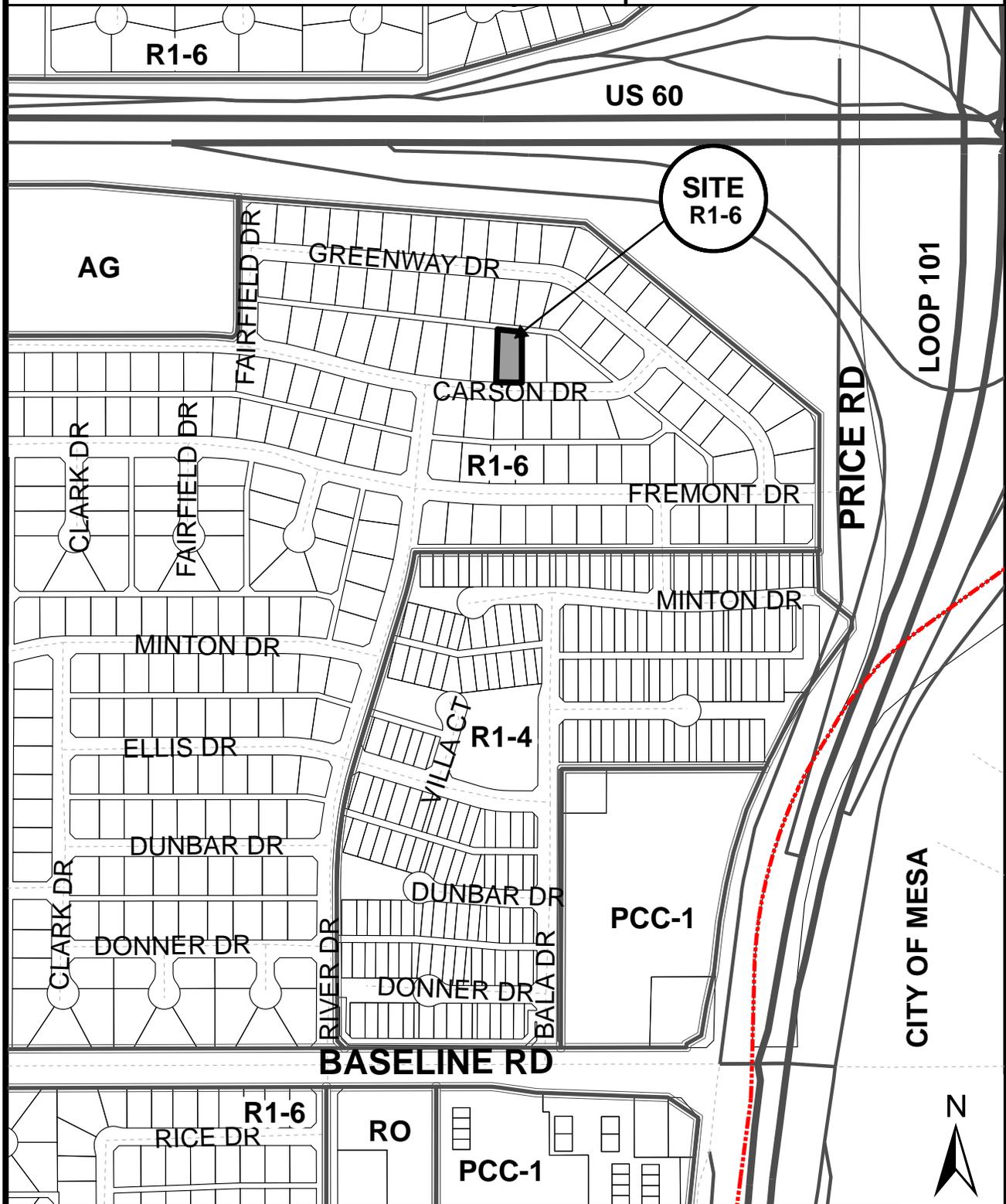
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

**HISTORY & FACTS:**

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

**PRATOR RESIDENCE**

**PL100254**



**Location Map**



**PRATOR RESIDENCE (PL100254)**

**DATE:** August 18, 2010  
**TO:** Michael Spencer, Senior Code Inspector  
**FROM:** Jack Scofield, Code Inspector  
**SUBJECT:** CE101915, Prator Residence Abatement

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**LOCATION:** 2118 E CARSON DR TEMPE, AZ 85282

**LEGAL:** CONTINENTAL EAST UNIT FIVE

**PARCEL:** 133-35-044

**OWNER:** PRATOR JOHN NEIL  
2118 E CARSON DR  
TEMPE, AZ 85282

**FINDINGS:**

5/24/2010 The Code Compliance Division received a complaint concerning a dead tree and deteriorated fence.

5/25/2010 Inspected property and found a large dead tree in the front yard and the rear yard concrete panel fence had been partially knocked down. Hand delivered notice to comply to property owner's son Dyllon Prator.

6/2/2010 Received phone call from property owners wife Melissa Prator advising that they are waiting for insurance money to repair the fence and remove the dead tree.

6/30/2010 Received phone call from Mellisa Prator advising that they had received the insurance money to fix the fence and remove the dead tree. She indicated that the work would be completed by 7/12/2010.

7/14/2010 Final notice to comply mailed to property owner.

7/29/2010 Violations not corrected, Citation issued.

8/13/2010 Property owner failed to appear for court date to address citation.

8/18/2010 Posted notice of intent to abate to property and mailed copy to property owner.

**RECOMMENDATIONS:**

I recommend an abatement of the nuisance violations at the property at 2118 E Carson Dr., due to property owner's failure to bring property into compliance with Tempe City Codes 21-3.B.8 and 21-3.B.15. Mr. Prator has been given ample time to come into compliance and maintain the property. Mr. Prator has failed to appear for court to address the citation issued for these violations. There has been no indication Mr. Prator will come into compliance. The property represents a safety hazard and an eyesore to the community.

Respectfully submitted,

Jack Scofield  
Code Inspector II

ACTION TAKEN: Subm. 7  
NAME Jack Scofield  
DATE: 8-18-10

# Arizona Traffic Ticket and Complaint

City of Tempe  
Maricopa County  
State of Arizona



Complaint Number <b>1442755</b>		Case Number		Social Security Number		Military		<input type="checkbox"/> Serious Physical Injury	<input type="checkbox"/> Accident	<input type="checkbox"/> Fatality	<input type="checkbox"/> Commercial	
Driver's License No.		DLP <input type="checkbox"/>	State	Class	Endorsements M H N P T X D			Incident Report Number <b>CE101915</b>				
<b>Defendant</b> Name (First, Middle, Last) <b>John Neil Prator</b> Juvenile												
Residence Address, City, State, Zip Code <b>2118 E Carson Dr. Tempe, AZ 85282</b>										Residence Phone No. ( )		
Sex	Height	Weight	Eyes	Hair	Origin	Date of Birth	Restrictions					
Business Address, City, State, Zip Code										Business Phone No. ( )		
<b>Vehicle</b>		Color	Year	Make	Model	Style	License Plate	State	Expiration Date			
Registered owner & address, City, State, Zip Code							Vehicle Identification Number					

The Undersigned Certifies That:

On	Month <b>07</b>	Day <b>29</b>	Year <b>2010</b>	Time <b>1000</b>	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	<b>Speed</b>	Approx.	Posted	R & P	Speed Measurement Device <input type="checkbox"/> Radar <input type="checkbox"/> Laser <input type="checkbox"/> Pace		Direction of Travel
At	Location <b>2118 E Carson Dr</b>								<input checked="" type="checkbox"/> Tempe <input type="checkbox"/>	State of Arizona		Area Dist.

The Defendant Committed the Following:

<b>A</b>	Section: <b>21-3 B 8</b>	ARS CC	Violation: <b>Deteriorated Landscape</b>	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code	<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD						
<b>B</b>	Section: <b>21-3 B 15</b>	ARS CC	Violation: <b>Deteriorated Fence</b>	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code	<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD						
<b>C</b>	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD						
<b>D</b>	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD						
<b>E</b>	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD						

<b>You must appear on the date and time indicated at:</b>	<b>Tempe Municipal Court</b> 140 E. 5th Street Tempe, AZ 85281 Court No. 0753	<input checked="" type="checkbox"/> Traffic Court Suite 150, 1st Floor	Date: <b>08/12/2010</b>	Time: <b>Between 9AM &amp; 4PM</b>
		<input type="checkbox"/> Criminal Court Suite 200, 2nd Floor	Date: _____	Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM
	<input type="checkbox"/> Court:		Date:	Time: <input type="checkbox"/> AM <input type="checkbox"/> PM
Court Address, City, State, Zip Code				

Criminal: <input type="checkbox"/> Without admitting guilt, I promise to appear as directed hereon.	Victim? <input type="checkbox"/>	Victim Notified? <input type="checkbox"/>
Civil: <input type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.	I certify that upon reasonable grounds I believe the defendant committed the act described contrary to law and I have served a copy of this complaint upon the defendant.	
<b>X</b> _____	<i>[Signature]</i> Complainant	<b>70003</b> PSN

Comments: **1st Violation Total = \$300.00**

**Juvenile Notification:**  
Failure to appear or comply as ordered will result in a suspension of your driver's license/driving privileges until you comply or reach your 18th birthday. Initials \_\_\_\_\_

Date issued if not violation date \_\_\_\_\_

COMPLAINT



1442755



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

05-25-2010

PRATOR JOHN N
2118 E CARSON DR
TEMPE AZ 85282-7408

Case#: CE101915
Site Address: 2118 E CARSON DR

SITE REINSPECTION ON OR AFTER: 06/08/2010

This is a notice to inform you that this site was inspected on 05/25/2010 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.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.8 (Dead trees or parts including stumps) and CC 21-3.b.15 (A wall or fence deteriorated in appearance or which constitutes a hazard).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.8 Remove dead tree in front yard. Stumps need to be removed or cut to ground level
CC 21-3.b.15 Repair fence with like materials or remove entirely

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

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 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-15**

Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or slum-like appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.



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

07/14/10

PRATOR JOHN NEIL  
2118 E. CARSON DR  
TEMPE, AZ 85282

Case#: CE101915  
Site Address: 2118 E. CARSON DR TEMPE, AZ 85282

**SITE REINSPECTION ON OR AFTER: 07/28/2010**

This is a notice to inform you that this site was inspected on 07/14/10 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.

**VIOLATION SECTION:**

**Violation of City of Tempe Code 21-3-B-8**

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Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or slum-like appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:**

- 1. REMOVE DEAD TREE IN FRONT YARD. STUMPS NEED TO BE REMOVED OR CUT TO GROUND LEVEL**
- 2. REPAIR REAR YARD FENCE OR REMOVE ENTIRELY. REPLACEMENT MATERIAL MUST BE COMPATIBLE WITH EXSISTING FENCE**

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

**Jack Scofield  
Code Inspector II  
E-Mail**

**Direct: 480-350-8967  
Code Compliance: 480-350-8372  
jack\_scofield@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.

**Sec. 21-43.D Notice to comply**

*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.

CASE # CE101857



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 08/18/2010

PRATOR JOHN NEIL  
2118 E CARSON DR  
TEMPE AZ 85282

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 FIVE  
**Location:** 2118 E CARSON DR TEMPE, AZ 85283  
**Parcel:** 133-35-044

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This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of **09/21/2010**. 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:

- **REMOVE DEAD TREE IN FRONT YARD. STUMPS NEED TO BE REMOVED OR CUT TO GROUND LEVEL.**
- **REPAIR REAR YARD FENCE OR REMOVE ENTIRELY. REPLACEMENT MATERIAL MUST BE COMPATIBLE WITH EXSISTING FENCE.**

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 **\$2572.00**. 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.**

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**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  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS EMAIL PLUS \_\_0\_\_ PAGE(S)

DATE: 8-17-2010      TIME: \_\_\_\_\_ A.M. \_\_\_\_2:25\_\_\_\_ P.M.

**PROPOSAL**

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

ADDRESS: 2118 E. CARSON DR.    TEMPE, AZ.

1. REMOVE FALLEN FENCING IN BACK OF HOUSE AT ALLEY. 16 MAN HRS	\$352.00
2. REMOVE LARGE DEAD EUCALYPTUS TREE IN FRONT YARD.	\$1,700.00
3. 2- LOADS TO DUMP	\$120.00
4. 8 HRS POLICE OFFICER-	\$400.00
<b>TOTAL COST FOR ABOVE ITEMS</b>	<b>\$2,572.00</b>

