

Staff Summary Report



Hearing Officer Hearing Date: April 20, 2010

Agenda Item Number: 8

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Department to abate public nuisance items at the Toth Property located at 3332 South Ventura Drive.

DOCUMENT NAME: 20100420dssl03 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **TOTH PROPERTY (PL100084/ABT10003/CE100355)** (Jody Benson, Inspector; Greg Toth, property owner) located at 3332 South Ventura 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*

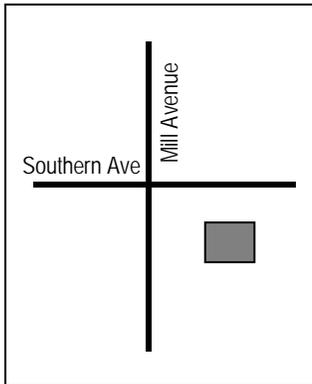
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Authorize Abatement

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the **TOTH PROPERTY** at 3332 South Ventura Drive. 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 CE100355: Grass and weeds in landscaping; draining or treating of green pool; overheight grass and weeds and excess junk and debris on property

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-19. Neighborhood Enhancement Report

COMMENTS:

Code Compliance is requesting approval to abate the Toth Property located at 3332 South Ventura Drive in the R1-6, Single Family Residential District. This case was initiated on February 23, 2010 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Greg Toth, regarding violations of the Tempe City Code for deteriorated landscaping.

Mr. Toth has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to deteriorating landscape, green pool, and excessive junk and debris.

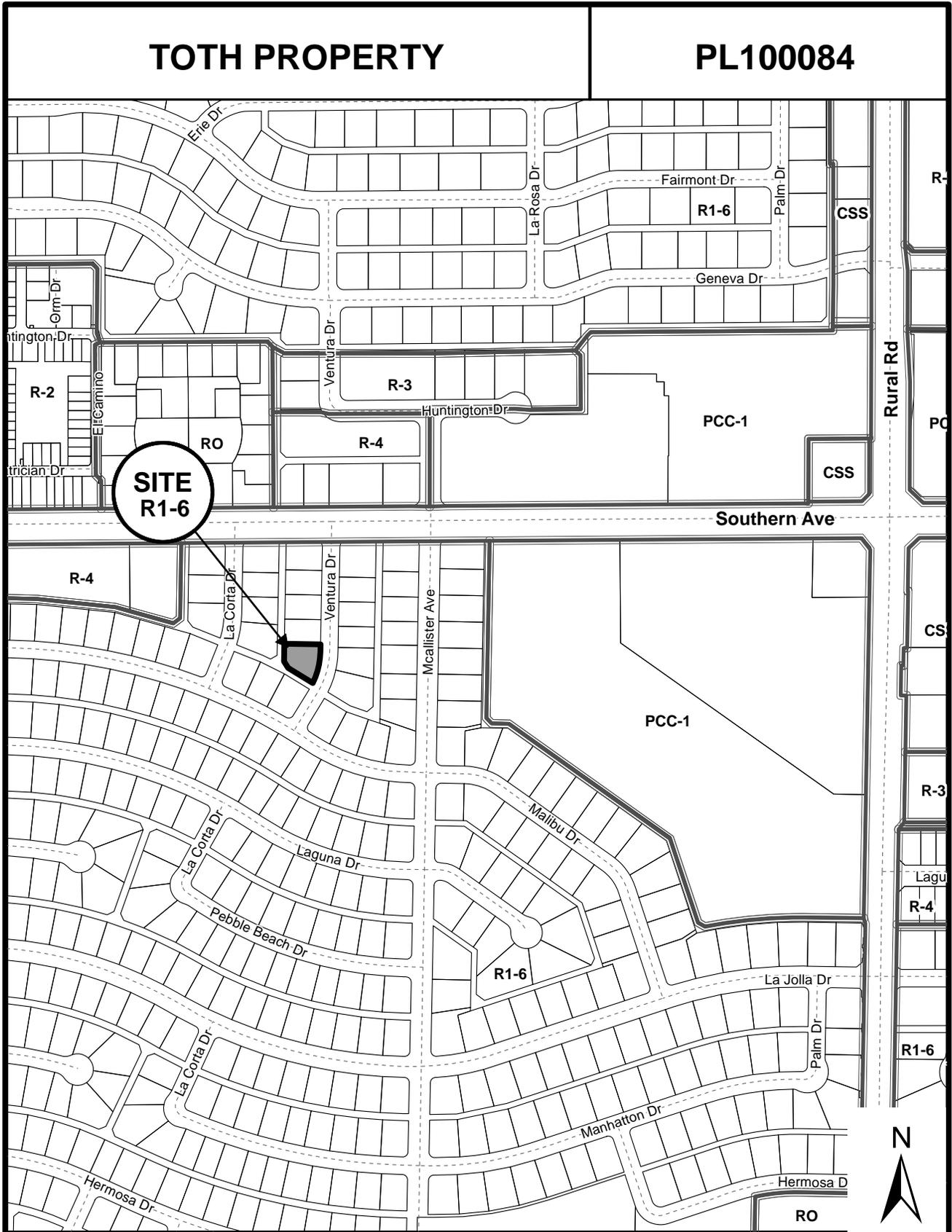
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Development Services Hearing Officer approve the abatement of this public nuisance in accordance with section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

TOTH PROPERTY

PL100084



Location Map



TOTH PROPERTY (PL100084)

DATE: April 12, 2010
TO: Mike Spencer Sr. Code Inspector
FROM: Jody Benson, Code Inspector
SUBJECT: Request for Authorization to Abate Complaint CE100355

COMPLAINT: CE100355

LOCATION: 3332 S. Ventura Drive, Tempe, AZ 85282

LEGAL: LOT 417 OF NU-VISTA UNIT SEVEN, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED BOOK 97 OF MAPS, PAGE 1.

OWNER: Greg Toth dba / Spad-Magic Technologies LLC
9B Inner Circle Dr
Scottsdale AZ 85258

Greg Toth dba / Spad-Magic Technologies LLC
5 Eagle Lane
Palm Harbor FL, 34683

FINDINGS:

- 02/23/10 Inspected the property with two neighbors that were complaining about the residence. I took photos of the open vacant house, green water in the pool, and junk and debris in the carport. Posted notice to the property and sent it to the last known address of the owner.
- 03/02/10 Found no changes. Contacted the City of Tempe authorized abatement contractor Jack Harrington to request an estimate.
- 03/03/10 Returned to meet Jack Harrington at the property for an estimate for removal of grass and weeds in the gravel, draining of the green pool, securing open doors and windows of the residence, trimming of the palm trees, removal of junk and debris scattered about the property.
- 03/03/10 Took Senior Code inspector Mike Spencer to the property. He advised to handle all violations through the abatement process with the hearing officer instead of handling some as immediate and the rest through the hearing officer.
- 03/08/10 Found no change. Took photos. Will post and send a notice of intent to abate.

- 03/11/10 Took photos and posted notice of intent to abate.
- 03/22/10 Spoke to the complainant at his residence on S Ventura. There appears to be no change at the property. There was a silver Volkswagen hatchback parked in front of 3332 s Ventura Drive but it drove away before I could establish if it was somehow associated with the residence.
- 03/23/10 Took photos for abatement request. Turned in project submittal for the 4/20/10 hearing date and spoke to planning staff SL about the case.
- 04/06/10 Inspected the property and found no changes. Took photos.

COMPLAINT HISTORY

The following history reflects all valid complaints on this property since Greg Toth dba/Spad-Magic Technologies LLC established ownership of 3332 S Ventura Drive in May 9th of 2001.

- CE065055 **October 2006 through November of 2006** Complaint for grass and weeds in the gravel and lawn parking. In compliance in about one month. Kirk Erickson was the inspector.
- CE081797 **March 2008 through April 2008** Complaint for grass and weeds in the gravel. In compliance in two weeks. Kristen Battafarno was the inspector.
- CE086183 **August 2008 through March 2009** Complaint for deteriorated landscape. In compliance after 7 months. Two Citations were issued for the violation. Jody Benson was the inspector.
- CE093616 **June 2009 through July 2009** Complaint green pool and deteriorated landscape in the backyard that were handled via an immediate abatement. In compliance after one month. Jody Benson was the inspector.

RECOMMENDATIONS:

The property at 3332 S Ventura Drive is vacant and was in the foreclosure process. There are multiple violations at the property; grass and weeds in the gravel, green pool, unsecure doors/windows, palm trees in violation , over height grass and weeds, and junk and debris scattered about the property.

A previous case provided one opportunity to speak with the owners mother. She stated Greg Toth is out of the country and inaccessible to her. The trustees sale was canceled on 07/14/2009 and it is very possible the homeowner has no idea he still owns the home.

There have been 4 prior cases at the property for deteriorated landscaping and 1 case for deteriorated swimming pool. Greg Toth dba/Spad-Magic Technologies LLC has allowed the landscape to fall back into violation and the pool to become deteriorated.

Without the intervention of abatement the property 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.

Greg Toth dba/Spad-Magic Technologies LLC 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 I/II



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

02-23-2010

SPAD-MAGIC TECHNOLOGIES LLC
ATTN: GREG TOTH
9B INNER CR
SCOTTSDALE AZ 85258

Case#: CE100355
Site Address: 3332 S VENTURA DR

SITE REINSPECTION ON OR AFTER: 03/02/2010

This is a notice to inform you that this site was inspected on 02/23/2010 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.1 (Filthy, littered, debris or trash-covered exterior areas), CC 21-3.b.9 (Dangerous, deteriorated, abandoned, partially destroyed or unfinished structure; vacated or abandoned buildings not securely closed with appropriate materials), and CC 21-3.b.16 (Swimming pool that is deteriorated or presents a health hazard).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.1 Please remove trash, litter, and debris from the carport
CC 21-3.b.9 Please secure all openings to building (to avoid immediate abatement)
CC 21-3.b.16 Please restore water to a clear, clean condition (to avoid immediate abatement)

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

Jody Benson
Code Inspector II

Direct: 480-858-8671
Code Compliance: (480)350-8372
Email: jody_benson@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, subsections (b) 1-8 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) 9-16; 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

CASE # CE100355



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 03/11/2010

SPAD-MAGIC TECHNOLOGIES LLC
ATTENTION: GREG TOTH
9B INNER CIRCLE DR
SCOTTSDALE AZ 85258

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

Legal: LOT 417 OF NU-VISTA UNIT SEVEN, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED BOOK 97 OF MAPS, PAGE 1.

Location: 3332 S. VENTURA DRIVE, 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 **04/20/2010**. 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:

- **Secure the opened door(s), window(s), and any other unsecure access points into the residence.**
- **Removal of black water and debris from the pool.**
- **Removal of all uncontrolled growth of grass and weeds in the gravel front and side yard landscape(s).**
- **Trim palm trees that are in violation.**
- **Removal of junk and or debris in the carport, front, and side yard(s).**
- **Cut all over height grass and weeds in the 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 \$1254.00. 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

CASE # CE100355A



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 03/11/2010

SPAD-MAGIC TECHNOLOGIES LLC
ATTENTION: GREG TOTH
5 EAGLE LANE
PALM HARBOR FL, 34683

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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
3831 W AVALON
PHOENIX, AZ. 85019
TEL: (602) 446-2630
FAX: (602) 347-5487
EMAIL: JACKHBOARDUPS@YAHOO.COM

THE FOLLOWING DOCUMENT IS FOR:

NAME: **JODY BENSON**

FIRM: CITY OF TEMPE CODE COMPLIANCE

DATE: 3-4-10 TIME: 11:00 **A.M.** _____ P.M.

PROPOSAL

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

ADDRESS: 3332 S VENTURA TEMPE, AZ.

1. BOARD UP ENTIRE HOUSE 9 SHEETS @ \$50./ EACH	\$450.00
2. CLEAN GRASS & WEEDS IN BACK YARD & HAUL JUNK FROM CARPORT & YARD. 12 MAN HRS @ \$22./HR	\$264.00
3. REMOVE WEEDS AND & TRIM 2 PALMS IN FRONT	\$414.00
4. DRAIN POOL	<u>\$125.00</u>
TOTAL COST FOR ABOVE ITEMS	\$1254.00

NOTE: NO POLICE NEEDED- PROPERTY IS VACANT

THANK YOU

ACCEPTANCE

JACK HARRINGTON



















