

# Staff Summary Report



Hearing Officer Hearing Date: 03/06/2012

Agenda Item Number: 2

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Wente Property located at 928 East Tempe Drive.

**DOCUMENT NAME:** HOr\_WentePropAbate\_030612 **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 **WENTE PROPERTY (PL120031)** (Michael Spencer, Inspector; Kevin Wente, property owner) located at 928 East Tempe Drive in the R-2 Multi-Family Residential District.

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

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

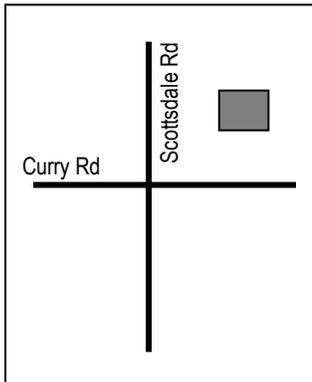
**LEGAL REVIEW BY:** N/A

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

**FISCAL NOTE:** \$1080.00 for abatement request, over height grass, landscape & weeds, trash & debris removal.

**RECOMMENDATION:** **Staff – Approval of Abatement Proceedings**

**ADDITIONAL INFO:**



Code Compliance is requesting approval to abate the Wente Property located at 928 East Tempe Drive in the R-2, Multi-Family Residential District. 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 CE114042: over height grass, landscape & weeds, trash & debris removal.

Due to the several attempts to have the site remediated by the property owner with no compliance, staff is requesting a 180 day open abatement to prevent repeated property neglect and neighborhood decline.

**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-11. Code Compliance Report & Photographs

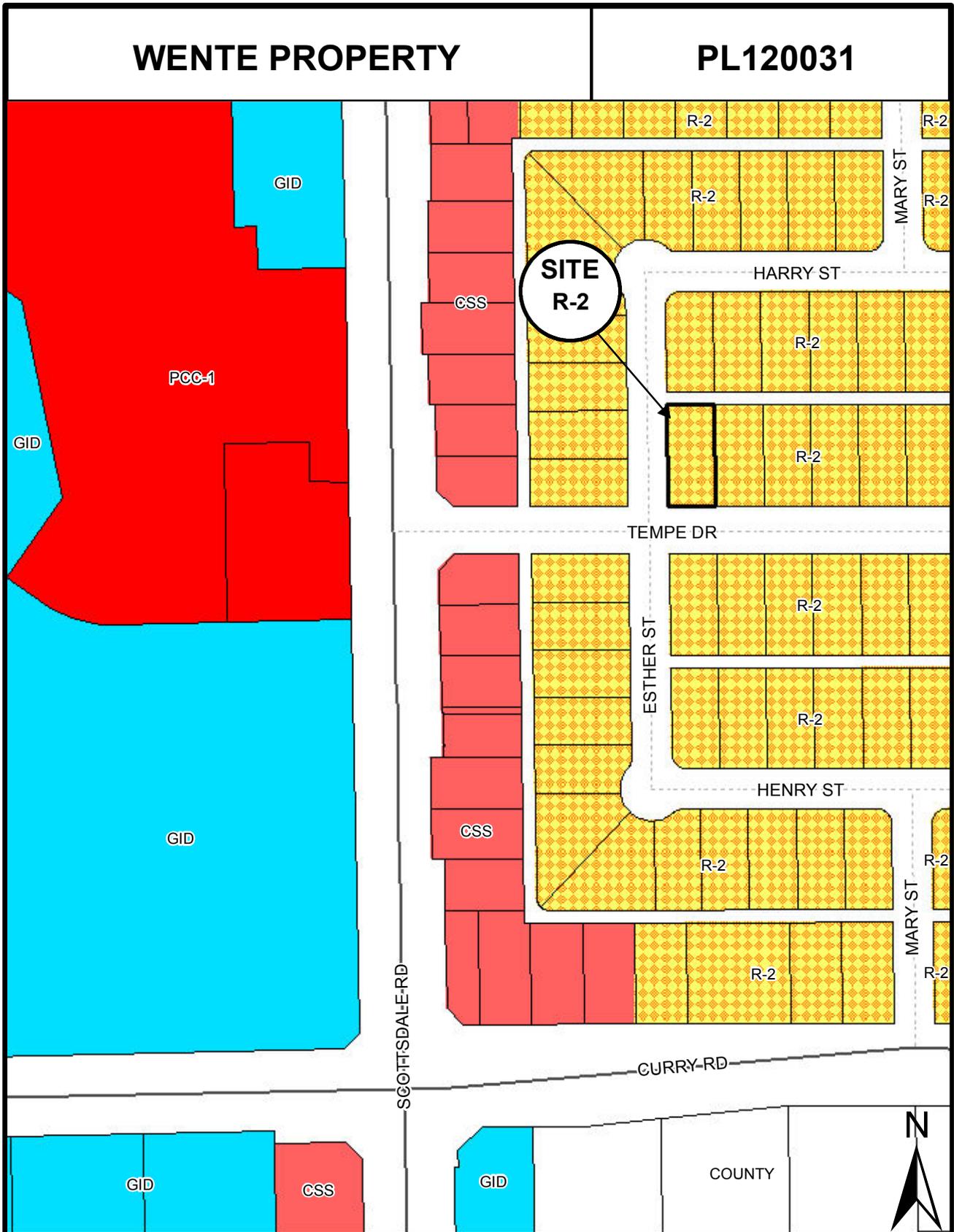
**COMMENTS:**

Code Compliance is requesting approval to abate the Wente Property located at 928 East Tempe Drive, in the R-2, Multi-Family Residential District. This case was initiated 12/11 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners regarding violations of the Tempe City Code.

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. Due to the several attempts to have the site remediated by the property owner with no compliance, staff is requesting a 180 day open abatement to prevent repeated property neglect and neighborhood decline.

**HISTORY & FACTS:**

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



Location Map



**WENTE PROPERTY (PL120031)**

**DATE:** 02/02/2012

**SUBJECT:** Kevin A Wente Property Abatement

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**LOCATION:** 928 E Tempe DR

**LEGAL:** Book 132, Map 12, Parcel 132, as recorded with the Maricopa County Assessor

**OWNER:** Kevin A & Dorothy J Wente  
4213 N 18<sup>th</sup> DR  
Phoenix, AZ 85015

**FINDINGS:**

12/01/2011 Property was inspected and found to have a large number of items stored on the front and west side yard of the property (toys, boxes, mattresses, tarps, paper, plastic, tires, crates, golf cart, wood, game table, bed frame, and other miscellaneous items). Notice was mailed to the owner.

12/15/2011 No change with the items stored on the front of the property. Final Notice was mailed to the owner.

01/04/2012 No change with the items stored on the front of the property. Photos were taken of the property and a citation was issued.

01/24/2012 Kevin A Wente failed to appear on the citation. No change in the condition of the items stored on the front of the property.

02/02/2012 Bid was received with a cost of \$1080.00 dollars. Abatement notice posted to the property and sent to the owner.

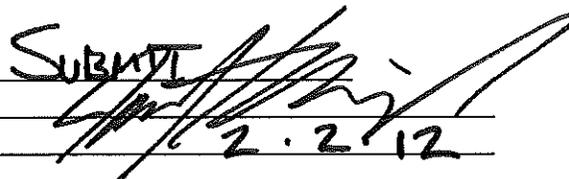
**RECOMMENDATIONS:**

The owner of this property Kevin A Wente has made no attempt to bring the property into compliance and failed to appear on the citation. I therefore request the City of Tempe Community Development Abatement Hearing Officer for authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code.

Respectfully submitted,

Michael Spencer  
Senior Code Inspector  
City of Tempe

ACTION TAKEN: \_\_\_\_\_  
NAME \_\_\_\_\_  
DATE: \_\_\_\_\_

*SUBMITTED*  
  
2.2.12



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: 02/02/2012

TO: KEVIN A WENTE  
4213 N 18<sup>TH</sup> DR  
PHOENIX, AZ 85015

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

**LEGAL:** Book 132, Map 12, Parcel 132, as recorded with the Maricopa County Assessor.

**LOCATION:** 928 E TEMPE DR

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of 03/06/2012. 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:

21-3.b (1) Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof 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. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the county health officer or this code or any other ordinance of the city;

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 \$1080.00. 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: Michael Spencer

Phone Number 480-350-8075



**COMMUNITY DEVELOPMENT DEPARTMENT  
CODE COMPLIANCE  
CORRECTION NOTICE**

12-01-2011

KEVIN A / DORTHY J WENTE  
4213 N 18TH DR  
PHOENIX AZ 85015

Case#: CE114042  
Site Address: 928 E TEMPE DR

**SITE REINSPECTION ON OR AFTER: 12/15/2011**

This is a notice to inform you that this site was inspected on 12/01/2011 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION**

CC 21-3.b.1	Please remove trash, litter, debris, and stored items from the front and east side yards. (toys, boxes, cushions, tarps, tires, paper, plastic containers, wood, crates, mattresses, bed frame, game table, golf cart, and all other miscellaneous items)
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Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

**Michael Spencer**  
**Senior Code Inspector**

**Direct: 480-350-8075**  
**Code Compliance: (480)350-8372**

**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 \$170 per violation, 2nd occurrence \$270 per violation, 3rd occurrence \$370 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$270 per violation, 2nd occurrence \$470 per violation, 3rd occurrence \$670 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$370 per violation, 2nd occurrence \$670 per violation, 3rd occurrence \$970 per violation. | Section 21-25: \$1020 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 \$520 in addition to other fines, 2nd occurrence \$1020 in addition to other fines, 3rd occurrence, \$1520 in addition to other fines. | Zoning and Development Code: 1st occurrence \$140 per violation, 2nd occurrence \$390 per violation, 3rd occurrence \$790 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.



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

12-15-2011

KEVIN A / DORTHY J WENTE  
4213 N 18TH DR  
PHOENIX AZ 85015

Case#: CE114042  
Site Address: 928 E TEMPE DR

**SITE REINSPECTION ON OR AFTER: 12/29/2011**

This is a notice to inform you that this site was inspected on 12/15/2011 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION**

CC 21-3.b.1 Please remove trash, litter, debris, and stored items from the front and east side yards. (toys, boxes, cushions, tarps, tires, paper, plastic containers, wood, crates, mattresses, bed frame, game table, golf cart, and all other miscellaneous items)

**IF NOT IN COMPLIANCE BY 12/29/2011 A \$170.00 DOLLAR CITATION WILL BE ISSUED.**

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

**Michael Spencer  
Senior Code Inspector**

**Direct: 480-350-8075  
Code Compliance: (480)350-8372**

**Civil and Criminal Penalties**

<p>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 \$170 per violation, 2nd occurrence \$270 per violation, 3rd occurrence \$370 per violation   Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$270 per violation, 2nd occurrence \$470 per violation, 3rd occurrence \$670 per violation   Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$370 per violation, 2nd occurrence \$670 per violation, 3rd occurrence \$970 per violation.   Section 21-25: \$1020 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 \$520 in addition to other fines, 2nd occurrence \$1020 in addition to other fines, 3rd occurrence, \$1520 in addition to other fines.   Zoning and Development Code: 1st occurrence \$140 per violation, 2nd occurrence \$390 per violation, 3rd occurrence \$790 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.</p>
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**Arizona Traffic  
Ticket and Complaint**

City of Tempe  
Maricopa County  
State of Arizona



Complaint Number <b>1442687</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	<input type="checkbox"/> 16 Passenger Vehicle	<input type="checkbox"/> Haz. Material
Driver's License No.	DLP <input type="checkbox"/>	State	Class	Endorsements M H N P T X D			Incident Report Number <b>CE114042</b>		
<b>Defendant</b>		Name (First, Middle, Last) <b>KEVIN A WENTE</b>						Juvenile	
Residence Address, City, State, Zip Code <b>4215 N 18th DR PHOENIX AZ 85015</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>01</b>	Day <b>03</b>	Year <b>2012</b>	Time <b>9:45</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>428 E TEMPE DR</b>						<input checked="" type="checkbox"/> Tempe	State of Arizona		Area	Dist.

The Defendant Committed the Following:

<b>A</b>	Section:	<b>CC 213R1</b>	ARS CC	Violation: <b>TRASH, LITTER, DEBRIS</b>	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic	<input checked="" type="checkbox"/> Municipal Code
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Petty Offense	MVD	
<b>B</b>	Section:		ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Municipal Code
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<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	<input type="checkbox"/> Municipal Code
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<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	<input type="checkbox"/> Municipal Code
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<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	<input type="checkbox"/> Municipal Code
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<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"/> <b>Traffic Court</b> Suite 150, 1st Floor	Date: <b>1-19-2012</b>	Time: <b>Between 9AM &amp; 4PM</b>
	<input type="checkbox"/> Court:	<input type="checkbox"/> <b>Criminal Court</b> Suite 200, 2nd Floor	Date:	Time: <input type="checkbox"/> AM <input type="checkbox"/> PM
	Court Address, City, State, Zip Code		Date:	Time:

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 Mailed</b>	Complainant <b>CODE COMPLAINT</b>	PSN <b>8014</b>

Comments:  
**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 \_\_\_\_\_

**1st VIOLATION # 170.00 DOLLAR CITATION.**

**01-04-2012**  
 Date issued if not violation date

COMPLAINT



1442687

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: MICHEAL SPENCE  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS  0  PAGE(S)

DATE: 2-1-12

**PROPOSAL**

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

ADDRESS: 928 E TEMPE DR TEMPE, AZ.

1. CLEAN AND HAUL DEBRIS AWAY FROM FRONT AND SIDE YARDS INCULDING CARPORT. 24 MAN HOURS	\$ 528.00
2. 2 TRAILAR LOADS TO DUMP	80.00
3. TEMPE POLICE OFFICER	472.00
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TOTAL COST FOR JOB	\$1080.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON



ATTACHMENT 9



