

Staff Summary Report



Hearing Officer Hearing Date: August 19, 2008

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 at the **WINGERSKY PROPERTY (PL080264/ABT08016)** located at 1616 South Roosevelt Street.

DOCUMENT NAME: 20080819dsng01

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 **WINGERSKY PROPERTY (PL080264/ABT08016)** (Mike Wingersky, property owner) Complaint CE071664 located at 1616 South Roosevelt Street in the R1-6, Single Family Residential District.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

A handwritten signature in black ink, appearing to read 'JEA'.

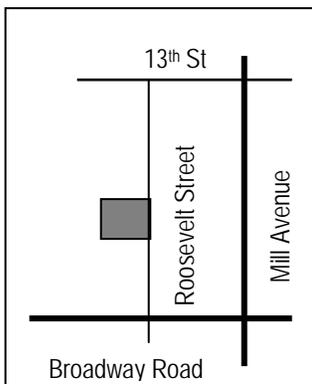
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

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 **WINGERSKY PROPERTY (PL080264/ABT08016)** (Mike Wingersky, property owner) Complaint CE071664 located at 1616 South Roosevelt Street in the R1-6, Single Family Residential District. The property is located north of Broadway Road along Roosevelt Street. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends authorizing 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
- 13-17. Neighborhood Enhancement Photos

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **WINGERSKY PROPERTY (PL080264/ABT08016)** (Mike Wingersky, property owner) Complaint CE071664 located at 1616 South Roosevelt Street in the R1-6, Single Family Residential District. The property is located north of Broadway Road along Roosevelt Street. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Julie Scofield, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

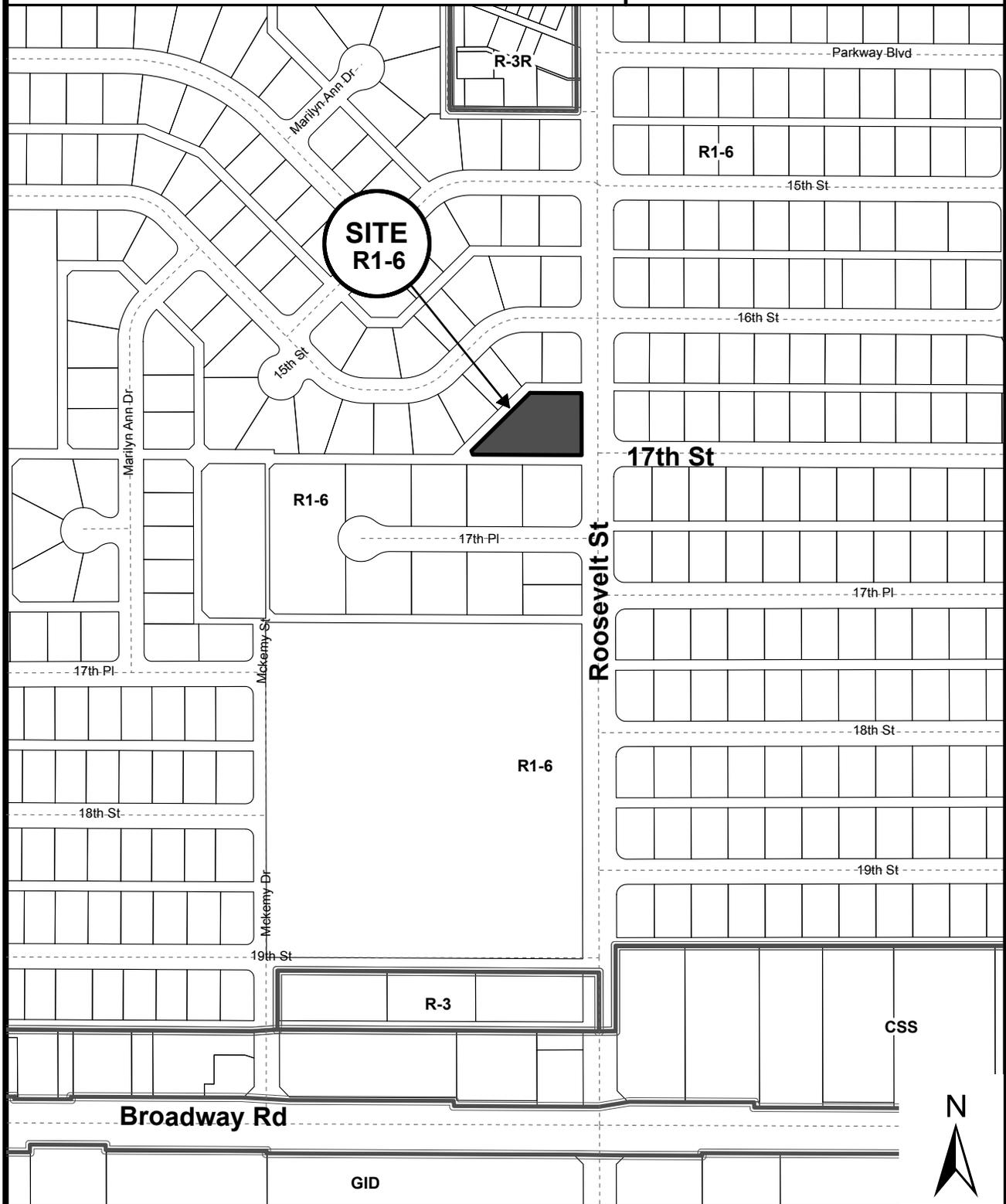
Staff recommends authorizing abatement of this property.

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

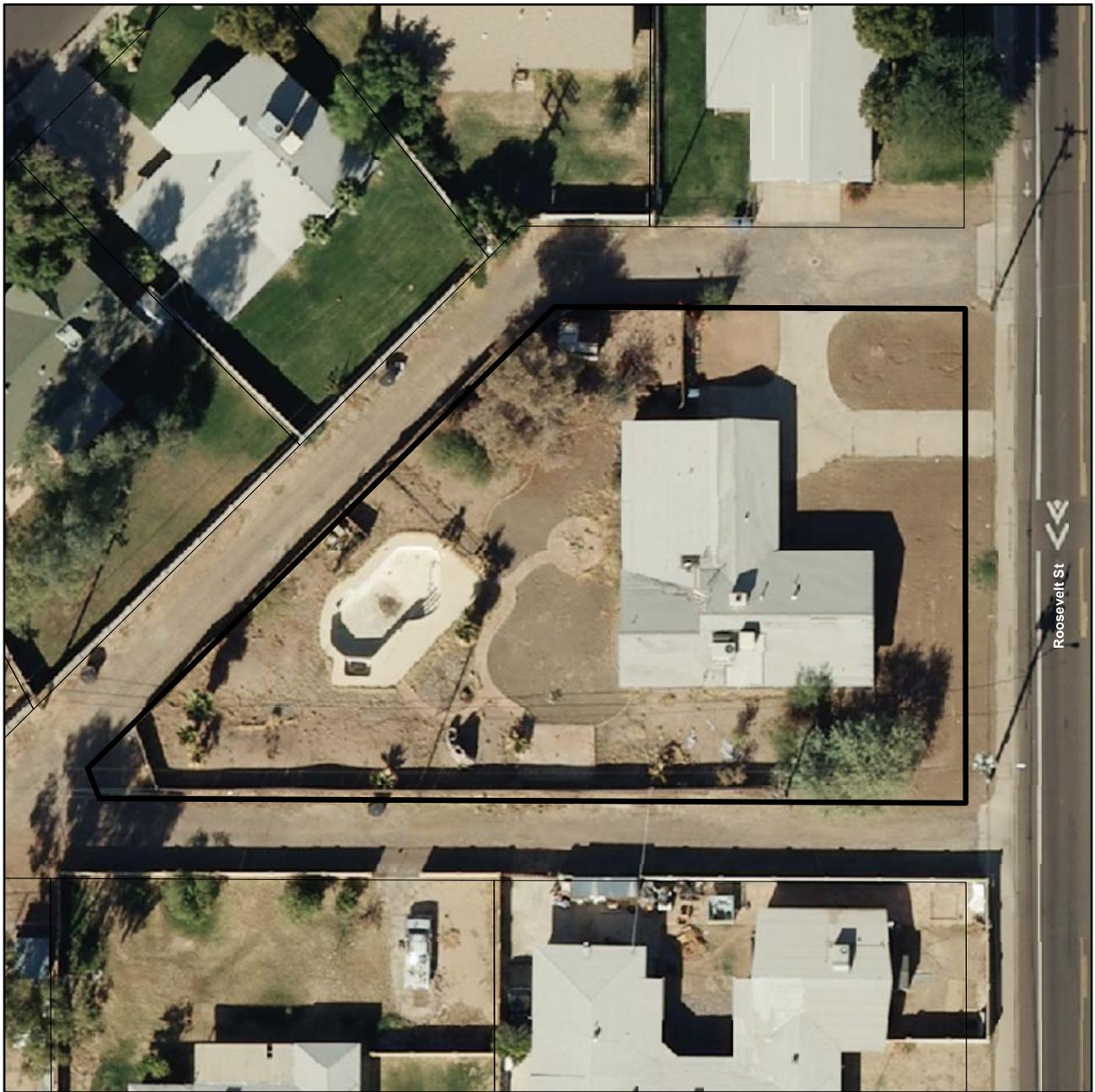
DESCRIPTION: Owner – Mike Wingersky
Applicant – Julie Scofield, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 19,931 s.f./.46 acres
Building area – 1,402 s.f.
Year of structure – 1964

WINGERSKY PROPERTY

PL080264



Location Map



WINGERSKY PROPERTY (PL080264)



City of Tempe
P. O. Box 5002
Tempe, AZ 85280
www.tempe.gov
(480) 350-8372
(480) 858-2231 (fax)

Neighborhood Enhancement Department

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 7/21/08

TO:

MIKE WINGERSKY
6708 W. SACK DR.
GLENDALE, AZ 85308

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

LEGAL: Book 124, Map 66 Parcel 084, as recorded with the Maricopa County Assessor.

**LOCATION: 1616 S. ROOSEVELT 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 8/19/08. We are requesting Hearing Officer Authorization to abate this public nuisance codes in accordance with Section 21-53 of the Tempe City Code by removal and repair of: The removal of a dead tree, cutting overheight grass and or weeds, and fixing and or replacing the fence and gate. TCC 21-3-B-8 which prohibits landscaping that is dead, overheight, damaged, or presents a deteriorated or slum-like appearance and TCC 21-3-b-15 which prohibits any wall or fence that is missing boards or constitutes a hazard to persons or property

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 \$1285.00. 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: Julie Scofield

Phone Number 480-350-8951

DATE: 7/21/08
TO: Mike Spencer, Senior Code Enforcement Inspector
FROM: Julie Scofield, Code Inspector II
SUBJECT: Request to Abate Nuisance Violations- Reference Complaint #CE071664

LOCATION: 1616 S. Roosevelt St. Tempe, AZ 85281

LEGAL: Book 124, Map 66, Parcel 084, as recorded with the Maricopa County Assessor

OWNER: Mike Wingersky
6708 W. Sack Dr.
Glendale, AZ 85308

FINDINGS:

- 1/25/08 The Neighborhood Enhancement Department received a complaint for the above property for deteriorated landscaping and a deteriorated fence. The property was inspected. There is a large pine tree in the back yard that is dead. The fence has boards that are missing, broken, and deteriorated. The grass in the back yard is overheight, and the landscaping in the front is yellow dead grass. A courtesy notice was sent to owner Mike Wingersky to request compliance for the violations.
- 2/13/08 Reinspected the property. There has been no change to the landscaping or fence. A final notice was sent to the owner.
- 3/03/08 Reinspected the property. There has been no change to the condition of the property. A citation (#1380958) was issued for the landscaping and deteriorated fence. Pictures were taken.
- 3/26/08 Reinspected the property. The grass landscaping on the property has been cut, but the dead tree still remains and the fence has not been fixed. A second citation (#1380964) was issued for the dead tree and deteriorated fence. Pictures were taken.
- 4/22/08 Reinspected the property. The dead tree still remains and the fence has not been fixed. A final citation (#1380973) was issued for the dead tree and deteriorated fence. Pictures were taken.

- 5/12/08 Reinspected the property. There has been no change in the condition of the property. The owner has failed to appear on all citations that were issued. An estimate was requested from Jack Harrington to abate the property.
- 7/14/08 Received the estimate for the abatement of the property in the amount of \$1285.00
- 7/22/08 Submitted the application for the abatement of this property.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations be done at the property of 1616 S. Roosevelt St. due to Mike Wingerskys failure to come into compliance with Tempe City Codes. Mr. Wingersky has been given ample time to come into compliance and maintain the property. There has been no indication in Mr Wingerskys actions that he plans on coming into compliance.

Respectfully submitted,

Julie Scofield

ACTION TAKEN: submit for abatement
NAME: 
DATE: 22 July 08

JACK HARRINGTON
6828 N. 25TH DR., #B
PHOENIX, AZ 85017
TEL: (602) 446-2630
FAX : (602) 347-5487

FAX COVER & PROPOSAL

FAXED TO THE FOLLOWING NUMBER(S): 480-858-2278

THE FOLLOWING DOCUMENT IS FOR:

NAME: JULIE

FIRM: CITY OF TEMPE CODE CONPLANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 7/11/08

TIME: 2:20 A.M. P.M.

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE
UNDER CONTRACT #T08-092-02.

ADDRESS 1616 S ROOEVELT

- 1. MOW AND REMOVE WEEDS AND DEAD TREE FROM YARDS 1056.00
48 MH @ 22./
- 2 REPAIR WOOD FENCE APPROX 20FT 230.00

\$1285.00

TOTAL COST FOR ABOVE IDEMS

THANK YOU

JACK HARRINGTON

ACCEPTANCE

CASE #CE071664



**City of Tempe Code Enforcement Division
Notice to Comply: City Code**

Mailed on Date: 8/12/08

**MIKE WINGERSKY
6708 W. SACK DR.
GLENDALE, AZ 85308**

This is a courtesy notice to inform you that on 8/11/08, the property located at 1616 S. ROOSEVELT ST. was inspected and found to be in violation of the following subsection(s) of the City Code of The City of Tempe. A re-inspection will be conducted on or after 8/25/08 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).

ARTICLE VI. GRAFFITI VANDALISM

Sec. 22-100. Purpose and intent.

The purpose of this article is to provide a program for abatement of graffiti from public and private property to reduce blight and deterioration within the city, protect public safety and to expedite removal of graffiti from structures on both public and private property.
(Ord. No. 97.66, 12-11-97)

Sec. 22-105. Graffiti prohibition and removal.

(a) **Graffiti prohibited.** All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

(b) **Notice of violation.** If it is determined by the city that graffiti exists on property in violation of this article, the city shall, in writing, notify the responsible party with a notice of violation. The notice may be served by certified mail, personal service, or by posting the subject property and publishing the notice in the official city newspaper.

(c) **Contents of notice of violation.** The notice of violation shall identify the property in violation, shall generally describe the location of the graffiti, and shall direct that the graffiti be abated within ten (10) days of receipt of the notice. The notice shall state that in the event the responsible party fails to abate the graffiti within the time period specified in the notice of violation, the city shall abate the graffiti and may bill the responsible party for the costs. The notice shall state that the responsible party may appeal the notice by filing a written notice of appeal with the city clerk within the same time period given to abate the graffiti. The effective date of the notice of violation shall be the date received if delivered in person or sent by certified mail, or the date of first publication, if the alternate method of service is used.

(d) **City's authority to abate.** If the responsible party fails to abate the graffiti as required by the notice of violation, the city may proceed to abate the graffiti and may bill the responsible party for the costs thereof. The city or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section. The police department shall assist in the enforcement of this ordinance.
(Ord. No. 97.66, 12-11-97)

Graffiti means a drawing or inscribing a message, slogan, sign or symbol or mark of any type that is

made on any public or private building, structure or surface, and that is made without permission of the owner.

Responsible party means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control such property.

Please take the following corrective action by: 8/25/08

Required Correction(s):

1. PLEASE REMOVE ALL GRAFFITI FROM THE BUILDING ON THE PROPERTY. IF THIS IS NOT DONE SO BY THE DATE STATED ABOVE, ABATEMENT MAY OCCUR AND THE FINES WILL BE BILLED TO THE RESPONSIBLE PARTY.
2. YOU MAY APPEAL THIS NOTICE BY FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY CLERK WITHIN THE SAME TIME PERIOD GIVEN TO ABATE THE GRAFFITI.

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 or criminal charges against the property owner or responsible party.

Code Inspector: JULIE SCOFIELD

Phone Number: 480-350-8951
E-mail: JULIE_SCOFIELD@TEMPE.GOV

CASE #CE071664



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

Mailed on Date: 1/29/08

**MIKE WINGERSKY
6708 W. SACK DR.
GENDALE, AZ 85308**

This notice to comply is to inform you that on 1/28/08, the property located at 1616 S. ROOSEVELT 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 2/11/08 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-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.

Deteriorated or deterioration means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

Slum-like means a building, structure or premises characterized by deterioration or other similar conditions regardless of the condition of other properties in the neighborhood.

Violation of the Tempe City Code, Chapter 21-3-b-9

Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building in violation of the uniform building code as adopted by the city, and any vacated or abandoned building not securely closed at all times; any wood, metal or other material used for securing a vacated or abandoned building must be compatible with the color of the building.

Violation of the Tempe City Code, Chapter 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.

Please take the following corrective action by: 2/11/08

Required Correction(s):

1. PLEASE PROVIDE SOME SORT OF LANDSCAPING TO THE FRONT OF THE PROPERTY. THE LANDSCAPING COULD CONSIST OF GRASS, GRAVEL, DESERT, OR A COMBINATION WITH DEFINED BORDERS. IF YOU WISH NOT TO PROVIDE LANDSCAPING, YOU MAY GO WITH A DIRT LANDSCAPING FREE OF VEGETATION. (GRASS/WEEDS)
2. PLEASE CUT ALL OVERHEIGHT GRASS AND OR WEEDS IN THE BACK OF THE PROPERTY.
3. PLEASE CUT DOWN TO STUMP (12" OR LOWER) OR REMOVE THE DEAD TREE LOCATED IN THE BACK YARD OF THE PROPERTY.
4. PLEASE SECURE THE GATE AND FENCE AND REPLACE ANY MISSING OR DETERIORATED FENCE PANELS.
5. PLEASE SECURE THE OPEN WINDOW ON THE SOUTH SIDE OF THE PROPERTY.

CASE #CE071664



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

Mailed on Date: 2/14/08

**MIKE WINGERSKY
6708 W. SACK DR.
GENDALE, AZ 85308**

This notice to comply is to inform you that on 2/13/08, the property located at 1616 S. ROOSEVELT 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 2/27/08 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-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.

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Slum-like means a building, structure or premises characterized by deterioration or other similar conditions regardless of the condition of other properties in the neighborhood.

Violation of the Tempe City Code, Chapter 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.

Please take the following corrective action by: 2/27/08

Required Correction(s):

1. PLEASE PROVIDE SOME SORT OF LANDSCAPING TO THE FRONT OF THE PROPERTY. THE LANDSCAPING COULD CONSIST OF GRASS, GRAVEL, DESERT, OR A COMBINATION WITH DEFINED BORDERS. IF YOU WISH NOT TO PROVIDE LANDSCAPING, (WHILE THE HOUSE IS NOT BEING USED AS RENTAL) YOU MAY GO WITH A DIRT LANDSCAPING FREE OF VEGETATION. (GRASS/WEEDS)
2. PLEASE CUT ALL OVERHEIGHT GRASS AND OR WEEDS IN THE BACK OF THE PROPERTY.
3. PLEASE CUT DOWN TO STUMP (12" OR LOWER) OR REMOVE THE DEAD TREE LOCATED IN THE BACK YARD OF THE PROPERTY.
4. PLEASE SECURE THE GATE AND FENCE AND REPLACE ANY MISSING OR DETERIORATED FENCE PANELS AND OR BOARDS.

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: JULIE SCOFIELD

Phone Number: 480-350-8951

E-mail: JULIE_SCOFIELD@TEMPE.GOV

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 \$100 dollars per violation, 2nd occurrence \$200 dollars per violation, 3rd occurrence \$300 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence \$300 dollars per violation, 2nd occurrence \$600 dollars per violation, 3rd occurrence \$900 dollars 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 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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