

Staff Summary Report



Hearing Officer Hearing Date: November 4, 2008

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items at the **CRUZ CASAS RESIDENCE (PL080377/ABT08032)** located at 3520 South Shafer Drive.

DOCUMENT NAME: 20081104dssl02

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 **CRUZ-CASAS RESIDENCE (PL080377/ABT08032)** (Pedro Crus-Casas, property owner) Complaint CE086368 located at 3520 South Shafer 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)

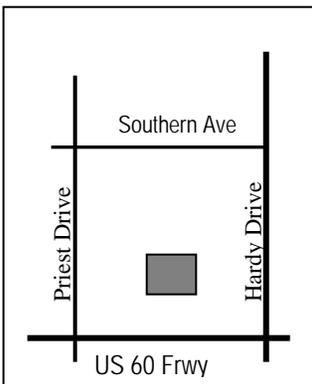
A handwritten signature in black ink, appearing to read 'SEA'.

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 **CRUZ-CASAS RESIDENCE (PL080377/ABT08032)** (Pedro Crus-Casas, property owner) Complaint CE086368 located at 3520 South Shafer Drive 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 authorizing abatement of this property.



PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-8. Neighborhood Enhancement Report
- 9-13. Neighborhood Enhancement Photos

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **CRUZ-CASAS RESIDENCE (PL080377/ABT08032)** (Pedro Crus-Casas, property owner) Complaint CE086368 located at 3520 South Shafer Drive 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 Jody Benson, 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 – Pedro Crus-Casas
Applicant – Jody Benson, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 6568 s.f.
Building area –1436 s.f.
Year of structure – 1970

CRUZ - CASAS RESIDENCE

PL080377



Location Map



CRUZ - CASAS (PL080377)

DATE: October 7, 2008
TO: Jan Koehn, Neighborhood Enhancement Administrator
FROM: Jody Benson, Code Inspector I/II
SUBJECT: Request for Authorization to Abate Complaint CE086368

COMPLAINT: CE086368

LOCATION: 3520 S. Shafer Drive, Tempe, AZ 85282

LEGAL: Lot 98, WESTWAY PARK UNIT 2, Book 129 of Maps Page 16, as recorded with the Maricopa County Assessor.

OWNER: Pedro Cruz-Casas
Last known mailing address:
3520 S. Shafer Drive
Tempe, AZ 85282

FINDINGS:

- 09/03/08 Received a complaint for deteriorated landscape.
- 09/09/08 Property was inspected and was found to have over height grass and weeds in the front and back yard(s). The home has been vacant for several months and was foreclosed and due to auction in November, 2007. Notice was sent and posted to the property.
- 09/22/08 Notice to comply was returned.
- 09/23/08 Property was inspected and was found to be worse than the previous inspection.
- 09/24/08 Received abatement estimate for \$176.00 from Jack Harrington Inc. authorized abatement contractor for the City of Tempe.
- 10/02/08 Inspected the property and found no change. Sent and posted Notice of Intent to abate for the 11/04/08 hearing.
- 10/07/08 Found no change at the property. Took photos of the property for this submittal.

COMPLAINT HISTORY

The following history reflects all valid complaints on this property since Pedro Cruz-Casas established ownership of 3520 S Shafer Drive in June of 2006

CE074776 **08/23/07 through 09/24/07** Complaint for over height grass and weeds in the front yard and back yard landscape(s). In compliance in one month. Jody Benson was the inspector.

CE082422 **03/20/07 through 06/04/07** Complaint for over height grass and weeds in the front yard and back yard landscape(s). The home was vacant and in foreclosure. Notices that were sent were returned. However Notice was posted to the door and eventually the yard was cut. In compliance in two months. Jody Benson was the inspector.

RECOMMENDATIONS:

There have been two prior complaints for 3520 S. Shafer Drive dating back to 2007 for the same violations, however the last case and this current case are the only ones that have been not been in compliance in the requested time frame. Pedro Cruz-Casas appears to have vacated the house at 3520 S. Shafer Drive after receiving Notice of Trustee Sale. The property was to be auctioned on 11/20/2007, however there is no record of that sale with the Maricopa County Recorders office. There is also no release or cancellation of that Notice Trustee Sale.

Attempts to contact Pedro Cruz-Casas at multiple addresses have met with negative results.

The home continues to be in violation of Tempe City Code 21-3(b)(8) for deteriorated landscape.

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.

Pedro Cruz-Casas 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

ACTION TAKEN: Referred for abatement
NAME: Jan Koel
DATE: 10/7/08

OFFICIAL RECORDS OF
**Unofficial
Document**

SECURITY TITLE AGENCY

When Recorded Return to:
Executive Trustee Services, LLC
15455 S.F. Mission Blvd., #208
Mission Hills, California 91345

(818) 837-2300

0835017992 AZ-114711-C 14-55882

NOTICE OF TRUSTEE'S SALE

The following legally described trust property will be sold, pursuant to the power of Sale under that certain Deed of Trust dated 6/21/2006 and recorded on 6/30/2006 as Instrument # **2006-0889368**, Book Page in the office of the County Recorder of **Maricopa** County, Arizona, at public auction to the highest bidder at At the steps at the front entrance of the Superior Court Building, 201 West Jefferson, Phoenix, Arizona, on **11/20/2007 at 2:00 PM** of said day:

Lot 98, WESTWAY PARK UNIT TWO, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 129 of Maps, page 16.

ACCORDING TO THE DEED OF TRUST OR UPON INFORMATION SUPPLIED BY THE BENEFICIARY, THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO A.R.S. SECTION 33-808(C):

STREET ADDRESS OR IDENTIFIABLE LOCATION: **3520 SOUTH SHAFER DRIVE
TEMPE, AZ 85282**

TAX PARCEL NUMBER: **123-42-111**

ORIGINAL PRINCIPAL BALANCE: **\$176,000.00**

NAME AND ADDRESS OF ORIGINAL TRUSTOR:
(as shown on the Deed of Trust)

Pedro Cruz-Casas, an Unmarried Man
910 EST LEMON AVENUE #6
TEMPE, AZ 85281

NAME AND ADDRESS OF BENEFICIARY:
(as of recording of Notice of Sale)

MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.
500 ENTERPRISE ROAD
SUITE 150
HORSHAM, PA 19044

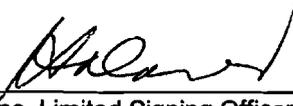
AZ-114711-C 0835017992 14-55882

NAME, ADDRESS & TELEPHONE NUMBER OF TRUSTEE:
(as of recording of Notice of Sale)

EXECUTIVE TRUSTEE SERVICES, LLC
15455 SAN FERNANDO MISSION BLVD., SUITE 208
MISSION HILLS, CALIFORNIA 91345
Sale Line: 714-259-7850

DATED: 8/17/2007

EXECUTIVE TRUSTEE SERVICES, LLC

By: 
Unofficial Document
Rosalie Solano, Limited Signing Officer

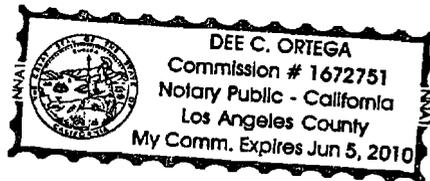
"Executive Trustee Services is a licensed escrow agent and therefore qualified to act as a Trustee pursuant ARS Section 33-803(A)(1). Trustee's Regulator: Arizona State Banking Department."

State of California } ss.
County of Los Angeles }

On 8/17/2007 before me, Dee C. Ortega Notary Public, personally appeared Rosalie Solano, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed this instrument.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Signature  (Seal)
Dee C. Ortega



CASE # CE086368



**City of Tempe Code Compliance Division
Notice to Comply: Chapter 21, Nuisances and Property Enhancement**

Notice Delivered to:

**PEDRO CRUZ-CASAS
3520 S. SHAFER DRIVE
TEMPE, AZ 85282**

**PEDRO CRUZ-CASAS
2207 W. MAIN STREET LOT# 36
MESA, AZ 85201**

This notice to comply is to inform you that on **09/03/08 AND 09/09/08**, the property located at **3520 S. SHAFER DRIVE, TEMPE** was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I and Article II, of the Tempe City Code. A re-inspection will be conducted on **09/23/08** 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.

Tempe City Code, Chapter 21-43(d)

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.

Please take the following corrective action to avoid a citation for each violation.

Required Correction(s):

1. PLEASE CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE FRONT AND SIDE YARD LANDSCAPE(S).
2. PLEASE CUT ALL OVER HEIGHT GRASS AND WEEDS IN THE BACK YARD LANDSCAPE.
3. PLEASE REMOVE ALL DEAD LEAVES AND DEAD TREE LIMBS IN THE FRONT YARD.
4. PLEASE MAINTAIN THE LANDSCAPE IN ACCORDANCE TO TEMPE CITY CODE 21-3(B)(8). ANY OTHER VIOLATION OF THIS CODE IN THE NEXT 12 MONTHS COULD RESULT IN IMMEDIATE CITATION(S) FOR DETERIORATED LANDSCAPE PER TEMPE CITY CODE 21-43(D).

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: JODY BENSON

Phone Number: (480)350-8671

E-mail: JODY_BENSON@TEMPE.GOV

CASE # CE086368



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 10/02/08

TO: **Pedro Cruz-Casas**
3520 S. Shafer Drive
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: Lot 98, WESTWAY PARK UNIT 2, Book 129 of Maps Page 16, as Recorded with the Maricopa County Assessor.

LOCATION: 3520 S. Shafer 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 **11/04/08**. 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:

- 1. Cut and remove all over height grass and weeds in the front and back yard landscape(s).**

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 **\$176.00**. 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









