

Staff Summary Report



Hearing Officer Hearing Date: 9/06/11

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Donnelly Residence located at 3111 South Clementine Drive.

DOCUMENT NAME: 20110906cdsl03 **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 **DONNELLY RESIDENCE (PL110289 /ABT11033 /CE103870)** (Shawn Daffara, Inspector; John Donnelly, property owner) located at 3111 South Clementine 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*

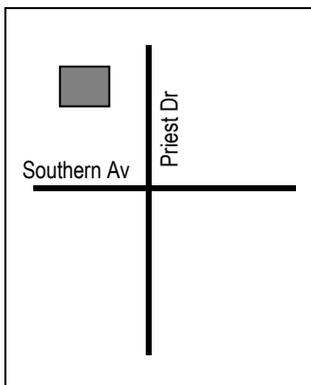
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: \$1112.00 for abatement request, including junk and debris in the front yard.
\$1320.00 for abatement request, including junk and debris in the rear yard.

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

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Donnelly Residence located at 3111 South Clementine 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 requests the approval of abatement of the following nuisance items under Complaint 103870: junk and debris in the front and back yards.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-17. Code Compliance Report & Photographs

COMMENTS:

Code Compliance is requesting approval to abate the Donnelly Residence located at 3111 South Clementine Drive in the R1-6, Single Family Residential District. This case was initiated 10/10 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners regarding violations of the Tempe City Code for junk and debris.

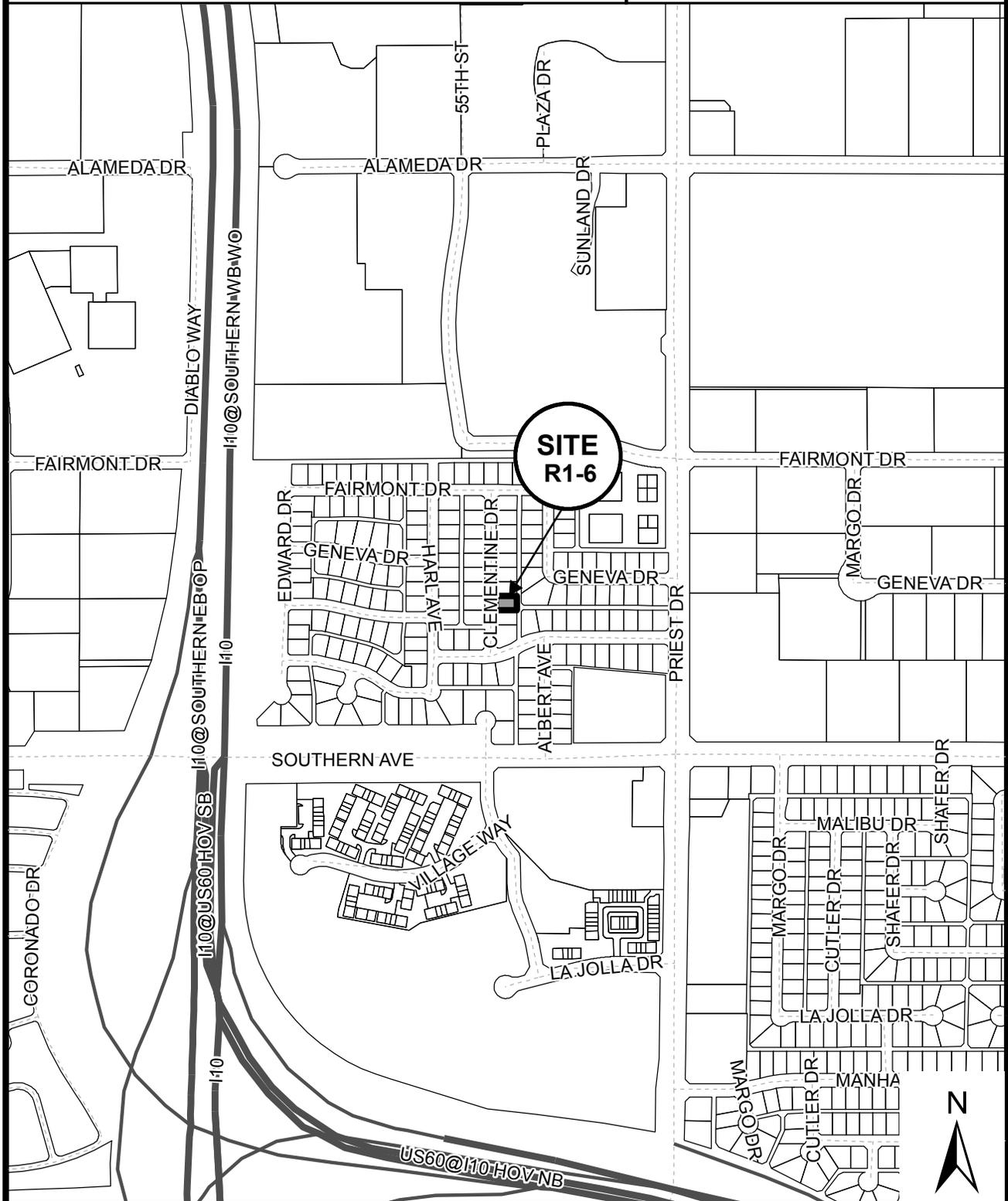
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

DONNELLY RESIDENCE

PL110289



Location Map



DONNELLY RESIDENCE (PL110289)

DATE: 08/02/2011
TO: Jeff Tamulevich, Code Enforcement Manager
FROM: Shawn Daffara, Code Inspector II
SUBJECT: Request to Abate Nuisance and Zoning Violations

LOCATION: 3111 South Clementine Drive. Tempe, AZ 85282
LEGAL: Book 123, Map 57, Parcel 045, as recorded with the Maricopa County Assessor
OWNER: JOHN P. DONNELLY
3111 SOUTH CLEMENTINE DRIVE.
TEMPE, AZ 85282

CE103870-FINDINGS:

- 10/19/10 The Neighborhood Enhancement Department received a complaint for the above property for deteriorated landscaping, junk/debris in front, side and backyards, deteriorated paint, inoperable vehicles, and illegal structure/building in backyard.
- 10/21/10 Inspected the property. Junk and debris in front, side, and backyards. Two inoperable vehicles in driveway deteriorated paint and rotted fascia. Backyard has illegal building addition that extends over rear yard zoning setback extends to rear property line. No building permits for this structure/addition. Final Notice issued since this property has similar complaints within one year. Building Safety has pending complaint for illegal building addition since 2007.
- 11/24/10 Some progress observed in front yard and driveway areas. Good amount of junk/debris removed. Granted time extension.
- 12/8/10 More progress in front yard and driveway. Also more progress on north side of house. Good amount of junk/debris removed. Granted time extension.
- 1/25/11 Front yard and driveway looks ok. North side yard has more progress, almost cleaned up. More junk/debris removed. Granted time extension.
- 2/28/11 North side yard cleaned up, now John will focus on south side yard. Granted time extension.
- 3/28/11 South side yard has small amount of progress. Progress has slowed. Told John Donnelly since progress slowed he has 30 days to complete the south side yard cleanup or citation will be issued. John said he has been seeing a Dr. about medical problems.

- 5/1/11 South side yard has significant progress. John said he will be having surgery within 10-14 days and will need time to heal before he can resume work on house. John showed me a Letter from his Doctor. Looked legitimate, agreed to grant 2 month extension. Will reinspect on July 1, 2011.
- 7/1/11 Observed new junk/debris in driveway and front yard. Knocked on door, no answer from owner. Left business card on front door.
- 7/15/11 Observed new junk/debris in driveway and front yard, looks like junk/debris being sorted across front, different piles of misc items. Knocked on door, no answer from owner.
- 8/1/11 Significant junk and debris in front yard and driveway. Backyard has new junk and debris piles. Looks like items from inside the home have been moved to the outside. Notice of Trustee sale posted to front door. Neighbor who lives across the street came over and said she thinks John moved out about month ago. Neighbor saw John walking around home after his surgery but she hasn't seen John since late June. Neighbor did tell me she didn't think John was in great health since his May surgery. Someone came by to pick up his cars in the driveway and no activity since.
- 8/3/11 Posted Notice to Abatement. Hearing scheduled for September 6, 2011

COMPLAINT HISTORY:

- | | | |
|----------|----------|---|
| CE000439 | 02/03/00 | Complaint for inoperable vehicles in driveway. |
| CE003575 | 10/12/00 | Complaint for weeds in gravel, junk/debris, inoperable vehicles. |
| CE013585 | 09/27/01 | Complaint for junk/ debris in front yard. |
| CE032937 | 07/24/03 | Complaint for junk/debris in front and backyards. |
| CE043381 | 09/23/04 | Complaint or junk/debris on property. |
| CE055621 | 12/08/05 | Complaint of grass and weeds in gravel landscape. |
| CE071455 | 03/26/07 | Complaint for junk/debris on property. |
| CE074467 | 08/09/07 | Complaint for two trailers in driveway, inoperable vehicle and junk/debris. |
| CE087512 | 10/24/08 | Complaint for junk/debris on property, grass and weeds in gravel landscape. |

CE092056 03/20/09 Complaint for junk/debris in front and backyards.
CE094045 06/24/09 Complaint for junk/debris and lawnparking.
CE101323 04/15/10 Complaint for junk/debris and inoperable vehicles.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violation be done at the property 3111 South Clementine Drive due to John Donnelly's failure to come into compliance with Tempe City Codes. Mr. Donnelly has been given ample time in previous cases to come into compliance and maintain the property. There has been no indication in Mr. Hazelton actions that he plans on coming into compliance. I request approval for a Abatement to correct the violations, due to the past history of code violations and owners lack of response in correcting these violations.

Respectfully submitted,

Shawn Daffara

ACTION TAKEN: Submitted
NAME: [Signature]
DATE: 8.3.11

Unofficial
Document

SECURITY TITLE AGENCY

When recorded mail to:
Max Default Services Corporation
43180 Business Park Drive #202
Temecula, CA 92590

Title No. 14-102283

Space Above For Recorder's Use

NOTICE OF TRUSTEE'S SALE

Trustee's Sale No. 112514

The following legally described trust property will be sold, pursuant to the power of sale under that certain Deed of Trust recorded on 3/26/2004 in Instrument No. 20040315533, Book xx, Page xx, records of Maricopa county, Arizona, at public auction to the highest bidder In the Courtyard, by the Main Entrance of the Superior Court Building, 201 West Jefferson, Phoenix 85003 on 10/18/2011 at 10:00 AM. Secured property is legally described as:

Lot 45, PETERSON PARK SUBDIVISION - PLAT #1, according to Book 98 of Maps, Page 48, records of Maricopa County, Arizona.

PURPORTED STREET ADDRESS: 3111 South Clementine, Tempe, AZ 85282

TAX PARCEL NUMBER(S): 123-57-045

ORIGINAL PRINCIPAL BALANCE: \$50,000.00

Name and address of beneficiary

Fannie Mae ("Federal National Mortgage Association")
14523 SW Millikan Way, Ste 200
Beaverton, OR 97005

Name and address of original trustor

John P Donnelly, a Single Man
3111 South Clementine
Tempe, AZ 85282

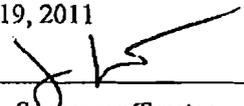
NOTICE OF TRUSTEE'S SALE CONTINUED

Trustee's Sale No. 112514

Name and address of trustee

Jason Cotton
43180 Business Park Drive, Suite 202
Temecula, CA 92590
Telephone: (877)914-3498
Sales Line: (714)259-7850

Dated: July 19, 2011



Jason Cotton, Successor Trustee

THE SUCCESSOR TRUSTEE HERBIN QUALIFIES AS TRUSTEE OF THE TRUST DEED IN THE TRUSTEE'S CAPACITY AS A LICENSED INSURANCE PRODUCER AS REQUIRED BY A.R.S SECTION 33-803, SUBSECTION A(1)

THE TRUSTEE'S REGULATOR IS THE ARIZONA DEPARTMENT OF INSURANCE

State of California }SS
County of Riverside

Unofficial Document

On July 19, 2011 before me, GINA MARIE IARIA, the undersigned, a Notary Public in and for said state, personally appeared Jason Cotton who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal

Gina Marie Iaria
Notary Public

(This area for Official Notary Seal)



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

10-21-2010

DONNELLY JOHN P
3111 S CLEMENTINE DR
TEMPE, AZ 85282

Case#: CE103870
Site Address: 3111 S CLEMENTINE DR.

SITE REINSPECTION ON OR AFTER: 11/22/2010

This is a notice to inform you that this site was inspected on 10/21/2010 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.3 (An unregistered vehicle outside of or under a roof area not enclosed), CC 21-3.b.8 (Landscaping that is substantially dead damaged or characterized by uncontrolled growth), CC 21-3.b.8 (Uncultivated plants, weeds, tall grass, or growth higher than 12 inches), CC 21-4.a.2.b (Deteriorated exterior surface/paint), and CC 21-3.b.9 (Unsafe Structures and Buildings).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.1 (Please remove trash, litter, and debris from property), CC 21-3.b.3 (Please register or remove vehicles), CC 21-3.b.8 (Please remove grass and weeds from gravel area of front yard landscape), CC 21-3.b.8 (Please cut overheight weeds and grass), CC 21-4.a.2.b (The fascia on the house needs to be repainted. Several areas have chipped and peeling paint), and CC 21-3.b.9 (Please remove the unsafe structures in backyard, additions have no building permits and violates the 15' rear yard zoning setback).

This will be FINAL NOTICE. If violations are not corrected the City of Tempe will move forward with an "abatement" of this property.

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

Shawn Daffara
Code Inspector II

Direct: 480-858-2284
Code Compliance: (480)350-8372
Email: shawn_daffara@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 \$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-2

5-01-2011

DONNELLY JOHN P
3111 S CLEMENTINE DR
TEMPE, AZ 85282

Case#: CE103870
Site Address: 3111 S CLEMENTINE DR.

SITE REINSPECTION ON OR AFTER: 7/012011

This is a notice to inform you that this site was inspected on 10/21/10, 11/24/10, 12/08/10, 1/21/11, 2/28/11, 3/28/11, 5/3/11 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.3 (An unregistered vehicle outside of or under a roof area not enclosed), CC 21-3.b.8 (Landscaping that is substantially dead damaged or characterized by uncontrolled growth), CC 21-3.b.8 (Uncultivated plants, weeds, tall grass, or growth higher than 12 inches), CC 21-4.a.2.b (Deteriorated exterior surface/paint), and CC 21-3.b.9 (Unsafe Structures and Buildings).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.1 Please remove trash, litter, and debris from property.
CC 21-3.b.3 Please register or remove vehicles
CC 21-3.b.8 Please remove grass and weeds from gravel area of front yard landscape.
CC 21-3.b.8 Please cut overheight weeds and grass.
CC 21-4.a.2.b The fascia on the house needs to be repainted. Several areas have chipped and peeling paint.
CC 21-3.b.9 Please remove the unsafe structures in backyard, additions have no building permits and violates the 15' rear yard zoning setback.

This will be FINAL NOTICE. If violations are not corrected the City of Tempe will move forward with an "abatement" of this property.

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

Shawn Daffara
Code Inspector II

Direct: 480-858-2284
Code Compliance: (480)350-8372
Email: shawn_daffara@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 \$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.



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

Neighborhood Enhancement Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: August 1, 2011

TO: JOHN P. DONNELLY
3111 SOUTH CLEMENTINE DR.
TEMPE, AZ 85282

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations CE103870 on the following described property:

LEGAL: Book 123, Map 57, Parcel 045, as recorded with the Maricopa County Assessor.

LOCATION: 3111 South Clementine 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 September 6, 2011, at 1:30 pm. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal or repair of:

- REMOVAL OF ALL OVER HEIGHT GRASS/WEEDES AND LANDSCAPE DEBRIS ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-8.
- REMOVAL OF ALL LITTER, JUNK/DEBRIS ON THE PROPERTY THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-1.
- REMOVAL OF ALL UNSAFE STRUCTURES AND BUILDINGS THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3-B-9.

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 \$2,432.00. 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: Shawn Daffara
Phone Number: 480-858-2284
E-mail: Shawn_Daffara@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:

NAMESHAWN DAFFARA
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 8-3-11

PROPOSAL

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

ADDRESS: 3111S CLEMENTINE TEMPE, AZ.

1. MOW AND REMOVE WEEDS & DEBRIS FROM FRONT YARD AND CARPORT 36 M.H. @ \$22.00/HR.	\$792.00
2. 8- LOADS @ \$40/LOAD	320.00 -----
TOTAL COST FOR JOB	\$1112.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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:

NAMESHAWN DAFFARA
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 8-3-11

PROPOSAL

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

ADDRESS: 3111S CLEMENTINE TEMPE, AZ.

1. MOW AND REMOVE WEEDS & DEBRIS FROM REAR YARD AND CARPORT 40 M.H. @ \$22.00/HR.	\$880.00
2. 11- LOADS @ \$40/LOAD	440.00 -----
TOTAL COST FOR JOB	\$1320.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON









