

Staff Summary Report



Hearing Officer Hearing Date: 4/19/11

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Fina Jones Apache LLC Property located at 2102 East Apache Boulevard.

DOCUMENT NAME: 20110419cds02 **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 **FINA JONES APACHE LLC PROPERTY (PL110117/ABT11008/CE104435)** (Marvin White, Inspector; Fina Jones Apache LLC, property owner) located at 2102 East Apache Boulevard in the CSS, Commercial Shopping and Services District.

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

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

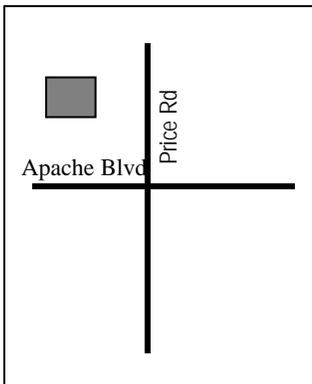
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: \$3216.00 for abatement request

RECOMMENDATION: Staff – Approval of Abatement Proceedings

ADDITIONAL INFO:



Code Compliance is requesting approval to abate the Fina Jones Apache LLC located at 2102 East Apache Boulevard in the CSS, Commercial Shopping and Services 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 CE104435 for overgrown weeds, trash and debris.

Due to the history of recidivism of the property owner and several months of attempts to have the site remediated by the property owner, staff is requesting a 180 day open abatement to prevent repeated property neglect and area decline.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-14. Code Compliance Report & Photographs

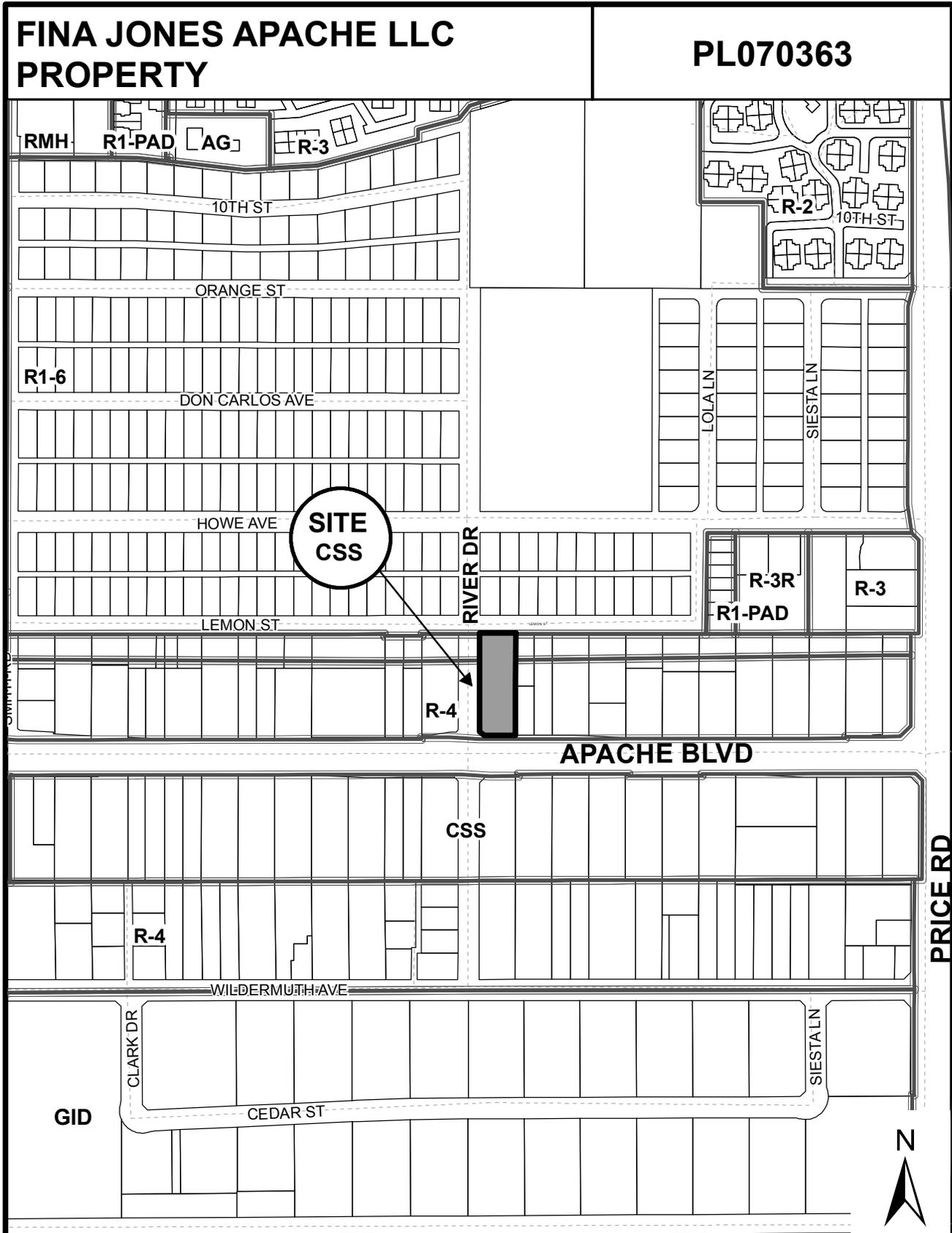
COMMENTS:

Code Compliance is requesting approval to abate the Fina Jones Apache LLC Property located at 2102 East Apache Boulevard in the CSS, Commercial Shopping and Services District. This case was initiated on 12/30/2010 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Fina Jones Apache LLC, regarding violations of the Tempe City Code for overgrown weeds, trash and debris.

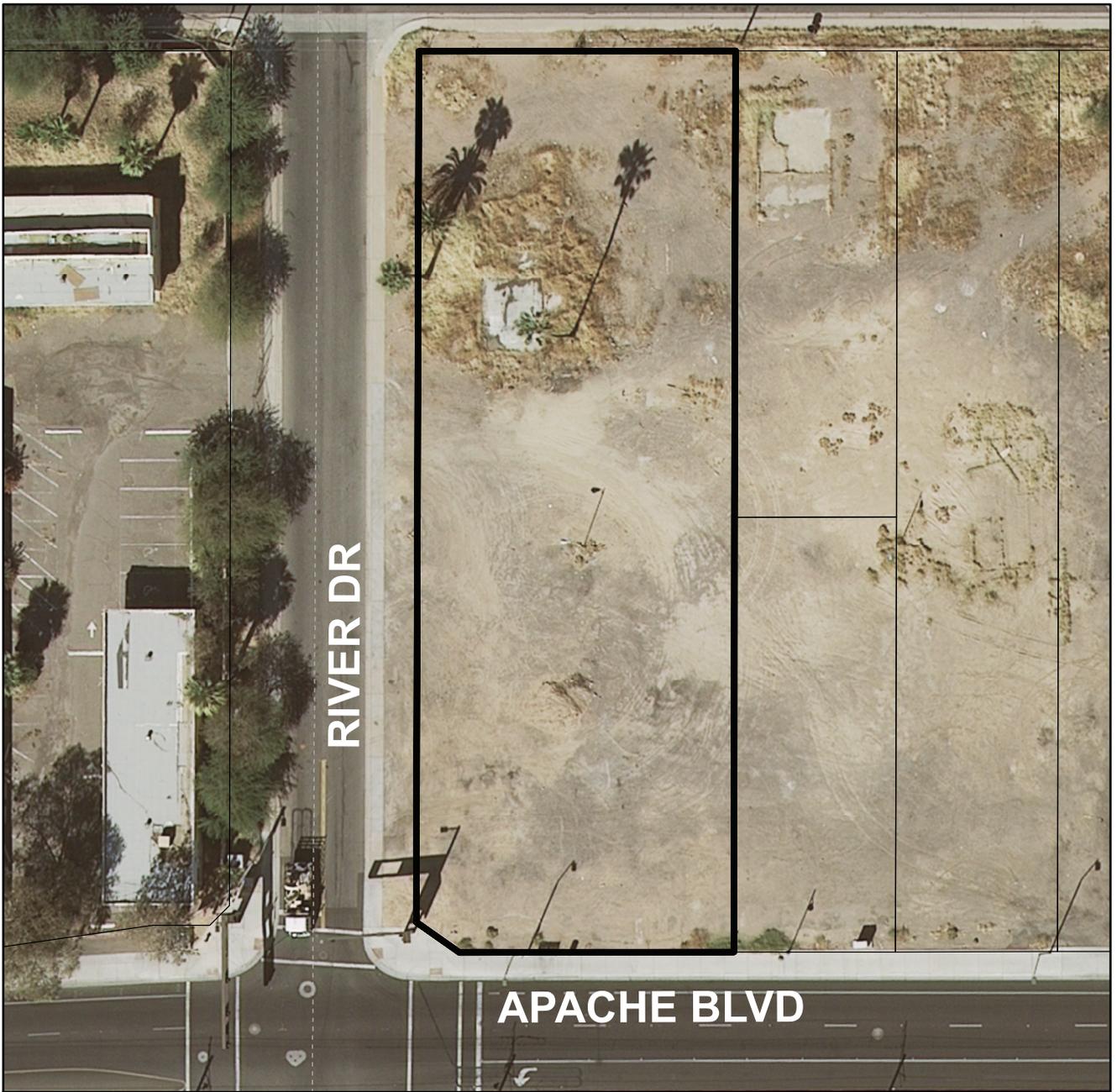
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code. Due to the history of recidivism of the property owner and several months of attempts to have the site remediated by the property owner, staff is requesting a 180 day open abatement to prevent repeated property neglect and area decline.

HISTORY & FACTS:

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



Location Map



FINA JONES APACHE LLC PROPERTY (PL110117)

DATE: March 17, 2011
TO: Jeff Tamulevich, Code Compliance Manager
FROM: Marvin White, Code Inspector
SUBJECT: CE104435 Fina Jones Apache LLC, Property Abatement

LOCATION: 2102 E. Apache Blvd. Tempe, AZ 85281

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

OWNER: Fina Jones Apache LLC
4422 N. Civic Center Plaza # 202
Scottsdale, AZ. 85251-3574

FINDINGS:

12/30/2010 Inspected property and found overgrown grass & weeds, debris and dead palm trees photos were taken.

12/30/2010 Notice to comply mailed to the property owner Fina Jones Apache LLC.

01/19/2011 Inspected the property and no change noticed.

01/19/2011 Final notice to comply mailed to the property owner Fina Jones Apache LLC.

01/31/2011 Inspected the property and no change noticed.

01/31/2011 Citation issued and mailed to the property owner Fina Jones Apache LLC.

02/09/2011 Inspected the property and no change noticed.

02/11/2011 Property owner Fina Jones Apache LLC failed to pay fine or appear in court.

02/15/2011 Inspected the property and no change noticed.

02/15/2011 Second citation issued and mailed to the property owner Fina Jones Apache LLC.

03/04/2011 Property owner Fina Jones Apache LLC failed to pay fine or appear in court.

03/17/2011 Inspected the property and no change noticed. A notice of intent to abate was mailed to the owner Fina Jones Apache LLC.

PREVIOUS COMPLAINT HISTORY:

02/25/2000 Overgrown grass, weeds & debris.
10/06/2005 Overgrown grass, weeds & debris.
07/29/2005 Overgrown grass, weeds & debris.
11/05/2008 Overgrown grass, weeds & debris.
03/16/2009 Overgrown grass, weeds & debris.
06/09/2009 Overgrown grass, weeds & debris.

RECOMMENDATIONS:

I recommend a 180 day abatement of the property at 2102 E Apache Blvd. The property owner Fina Jones Apache LLC has failed to bring the property into compliance with Tempe City Codes. The property has become blighted and a detriment to the neighborhood.

Thank you,

Marvin White
Code Inspector II

ACTION TAKEN: _____

NAME _____

DATE: _____



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

12-30-2010

FINA JONES APACHE LLC
4422 N. CIVIC CENTER PLAZA # 202
SCOTTSDALE, AZ. 85251-3574

Case#: CE104435
Site Address: 2102 E. APACHE BLVD.

SITE REINSPECTION ON OR AFTER: 01/17/2011

This is a notice to inform you that this site was inspected on 12/30/2010 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas.
CC 21-3.b.8	Uncultivated plants, weeds, tall grass, or growth higher than 12 inches.
CC 21-3.b.8	Dead trees or parts including stumps.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.1	Please remove trash, litter, and debris from property.
CC 21-3.b.8	Please cut overheight weeds and grass and remove from property.
CC 21-3.b.8	Remove dead tree. Stumps need to be removed or cut to ground level.

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

Marvin White
Code Inspector II

Direct: 480-350-8966
Code Compliance: (480)350-8372
Email: marvin_white@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.

SEE PAGE 2 (OTHER SIDE OF NOTICE) FOR CC/ZDC REFERENCE



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

01-19-2011

FINA JONES APACHE LLC
4422 N. CIVIC CENTER PLAZA # 202
SCOTTSDALE, AZ. 85251-3574

Case#: CE104435
Site Address: 2102 E. APACHE BLVD.

SITE REINSPECTION ON OR AFTER: 01/28/2011

This is a notice to inform you that this site was inspected on 01/19/2010 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas.
CC 21-3.b.8	Uncultivated plants, weeds, tall grass, or growth higher than 12 inches.
CC 21-3.b.8	Dead trees or parts including stumps.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.1	Remove trash, litter, and debris from property.
CC 21-3.b.8	Cut overheight weeds and grass and remove from property.
CC 21-3.b.8	Remove dead tree. Stumps need to be removed or cut to ground level.

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

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SEE PAGE 2 (OTHER SIDE OF NOTICE) FOR CC/ZDC REFERENCE

Arizona Traffic Ticket and Complaint

City of Tempe
Maricopa County
State of Arizona



Complaint Number 1413498		Case Number		Social Security Number			Military		<input type="checkbox"/> Serious Physical Injury		<input type="checkbox"/> Accident <input type="checkbox"/> Fatality		<input type="checkbox"/> Commercial		
Driver's License No.		DLP <input type="checkbox"/>		State		Class		Endorsements M H N P T X D				Incident Report Number CE104435			
Defendant		Name (First, Middle, Last) FRMA STONES APACHE LLC										Juvenile			
Residence Address, City, State, Zip Code 4422 N. CIVIC CENTER PLAZA #202 SCOTTSDALE, AZ										Residence Phone No.					
Sex		Height		Weight		Eyes		Hair		Origin		Date of Birth		Restrictions 85257	
Business Address, City, State, Zip Code 4422 N. CIVIC CENTER PLAZA #202 SCOTTSDALE, AZ 85257										Business Phone No. (480) 423-5494					
Vehicle		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 1	Day 31	Year 2011	Time 3:00	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Speed	Approx.	Posted	R & P	Speed Measurement Device <input type="checkbox"/> Radar <input type="checkbox"/> Laser <input type="checkbox"/> Pace			Direction of Travel	
At	Location 2102 E. APACHE BLVD. TEMPE, AZ. 85281								<input checked="" type="checkbox"/> Tempe		State of Arizona		Area	Dist.

The Defendant Committed the Following:

A	Section: 21-3 B 1	ARS CC	Violation: LETTER TRASH AND DEBRIS	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code	
B	Section: 21-3 B 2	ARS CC	Violation: OVERGROWN GRASS, WEEDS	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code	
C	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	
D	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	
E	Section:	ARS CC	Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code	

You must appear on the date and time indicated at:	Tempe Municipal Court 140 E. 5th Street Tempe, AZ 85281 Court No. 0753	<input checked="" type="checkbox"/> Traffic Court Suite 150, 1st Floor	Date: 2-10-11	Time: Between 9AM & 4PM
		<input type="checkbox"/> Criminal Court Suite 200, 2nd Floor	Date: _____	Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM
	<input type="checkbox"/> Court:	Date: _____	Time: _____	<input type="checkbox"/> AM <input type="checkbox"/> PM Court No. _____
Court Address, City, State, Zip Code				

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.	
X	Complainant: <u>Morgan White</u> PSN: <u>7004</u>	

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 _____

FIRST OFFENSE \$170.00

Date issued if not violation date: 1-31-2011

COMPLAINT



Arizona Traffic Ticket and Complaint

City of Tempe
Maricopa County
State of Arizona



Complaint Number 1380830	Case Number	Social Security Number	Military	<input type="checkbox"/> Serious Physical Injury	<input type="checkbox"/> Accident	<input type="checkbox"/> Fatality	<input type="checkbox"/> Commercial
Driver's License No.	DLP <input type="checkbox"/>	State	Class	Endorsements M H N P T X D	<input type="checkbox"/> 16 Passenger Vehicle	<input type="checkbox"/> Haz. Material	Incident Report Number CE104435
Defendant Name (First, Middle, Last) FINA JONES APACHE LLC							Juvenile
Residence Address, City, State, Zip Code						Residence Phone No.	
Sex	Height	Weight	Eyes	Hair	Origin	Date of Birth	Restrictions
Business Address, City, State, Zip Code 4422 N. CURE CENTER PLAZA #202 SCOTTSDALE, AZ						Business Phone No. (480) 423-5494	
Vehicle Color	Year	Make	Model	Style	License Plate 85251	State	Expiration Date
Registered owner & address, City, State, Zip Code					Vehicle Identification Number		

The Undersigned Certifies That:

On	Month 2	Day 15	Year 2011	Time 3:00	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Speed	Approx.	Posted	R & P	Speed Measurement Device <input type="checkbox"/> Radar <input type="checkbox"/> Laser <input type="checkbox"/> Pace	Direction of Travel
At	Location 2102 E. APACHE BLVD. TEMPE, AZ. 85281						<input checked="" type="checkbox"/> Tempe	State of Arizona		Area	Dist.

The Defendant Committed the Following:

A	Section: 21-3 B1	ARS Violation: CC LITTER, TRASH AND DEBRIS	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code
B	Section: 21-2 B3	ARS Violation: CC CURB-GROWN GRASS, WEEDS	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code
C	Section:	ARS Violation: CC	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code
D	Section:	ARS Violation: CC	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code
E	Section:	ARS Violation: CC	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
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		<input type="checkbox"/> Criminal Court Suite 200, 2nd Floor	Date:	Time: <input type="checkbox"/> AM <input type="checkbox"/> PM
	Court:	Date:	Time:	<input type="checkbox"/> AM <input type="checkbox"/> PM Court No.

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.	
X	<i>Morgan White</i>	70004
	Complainant	PSN

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 _____
SECOND OFFENSE \$270.00
2-15-2011
 Date issued if not violation date

COMPLAINT



1380830

CASE # CE104435



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 03/17/2011

FINA JONES APACHE LLC
4422 N. CIVIC CENTER PLAZA # 202
SCOTTSDALE, AZ. 85251-3574

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

Legal: LOTS 10, 11 AND 12, LOLA VISTA, A SUBDIVISION RECORDED IN BOOK 30 OF MAPS, PAGE 20, RECORDS OF MARICOPA COUNTY, ARIZONA.

Location: 2102 E. APACHE BLVD. 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 04/19/2011. 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:

- REMOVE OVERGROWN WEEDS, GRASS, TRASH AND DEBRIS FROM PROPERTY.
- REMOVE AND TRIM DEAD PALM TREES ON 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 **\$3216.00** 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: **MARVIN WHITE**
Phone Number: (480)350-8966
E-mail: marvin_white@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: MARVIN WHITE
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 2-10-11

PROPOSAL

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

ADDRESS: 2102 E APACHE TRAIL, TEMPE, AZ.

1. MOW AND REMOVE WEEDS , DEBRIS ,DEAD TREES , BUSHES ANDTRIM PALM TREE ON VACANT LOT 128 M.H. @ \$22.00/HR.	\$2816.00
2. 10- LOADS @ \$40/LOAD	400.00 =====
COST FOR ABOVE ITEMS	\$3216.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON





