

# Staff Summary Report



Hearing Officer Hearing Date: November 3, 2010

Agenda Item Number: 12

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Gutierrez Residence located at 4419 South Alder Drive.

**DOCUMENT NAME:** 20101103cdr105 **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 **GUTIERREZ RESIDENCE (PL100303 /ABT10027 /CE102786)** (Jack Scofield, Inspector; Luciano & Lisa Gutierrez, property owner) located at 4419 South Alder Drive in the R1-6, Single Family Residential District.

**PREPARED BY:** Ryan Levesque, Senior Planner (480-858-2393)

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

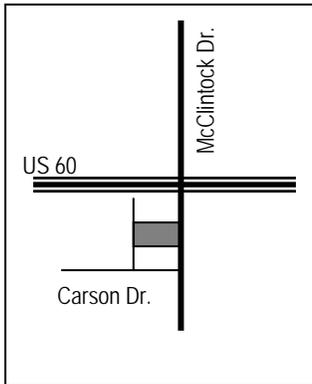
**LEGAL REVIEW BY:** N/A

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

**FISCAL NOTE:** \$484.00 for abatement request, including the removal of large tree from front yard

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

**ADDITIONAL INFO:**



Code Compliance is requesting approval to abate the Gutierrez Residence located at 4419 South Alder Drive in the R1-6, Single Family Residential District. The details of this case represent months of correspondence for compliance with the property owner. Staff requests the approval of abatement of the following nuisance items under Complaint CE102786:  
"Remove dead tree in front yard"

**PAGES:**

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

**ATTACHMENTS:**

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

**COMMENTS:**

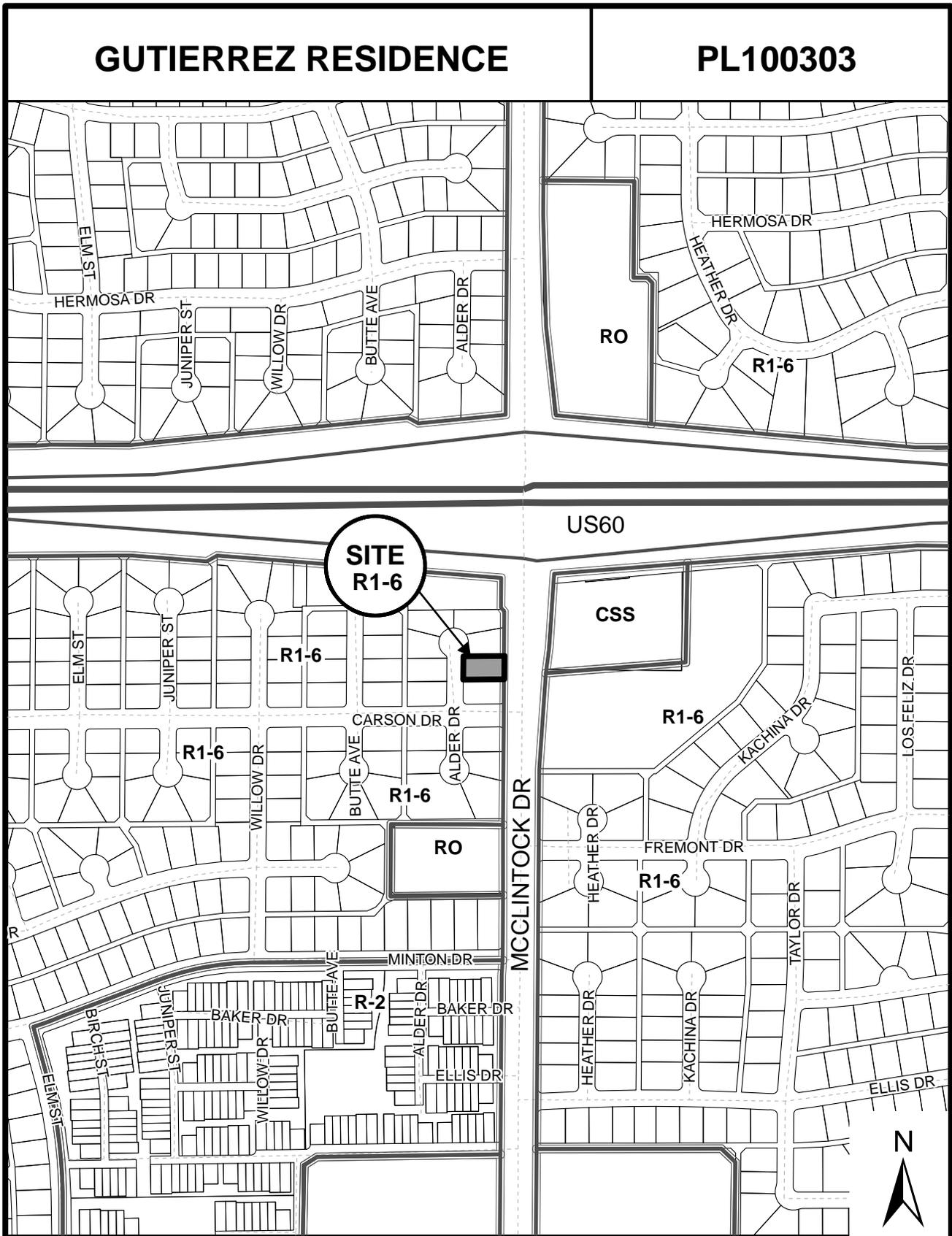
Code Compliance is requesting approval to abate the Gutierrez Residence located at 4419 South Alder Drive in the R1-6, Single Family Residential District. This case was initiated on August 5, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owners, Luciano & Lisa Gutierrez, regarding violations of the Tempe City Code for a dead tree in the front yard.

Mr. & Mrs. Gutierrez have received a courtesy notice citing the specific items in violation with Tempe City Code with regards to removal of dead tree and stump to be removed or cut to ground level.

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.



**Location Map**



**GUTIERREZ RESIDENCE (PL100303)**

**DATE:** September 20, 2010  
**TO:** Michael Spencer, Senior Code Inspector  
**FROM:** Jack Scofield, Code Inspector  
**SUBJECT:** CE102786, Gutierrez Residence Abatement

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**LOCATION:** 4419 S ALDER DR TEMPE, AZ 85282

**LEGAL:** TEMPE GARDENS UNIT SEVEN

**PARCEL:** 133-39-010

**OWNER:** GUTIERREZ LUCIANO/LISA C  
12404 N 127TH DR  
EL MIRAGE, AZ 85335

**FINDINGS:**

8/5/2010 The Code Compliance Division received a complaint concerning deteriorated landscape.

8/11/2010 Inspected property and found a large dead tree in the front yard. Notice to comply mailed to property owner.

8/24/2010 The Code Compliance Division received an additional complaint concerning deteriorated landscape.

8/30/2010 Final notice to comply mailed to property owner.

9/15/2010 The Code Compliance Division received an additional complaint concerning deteriorated landscape.

9/17/2010 Posted notice of intent to abate to property and mailed copy to property owner and foreclosing bank.

**RECOMMENDATIONS:**

I recommend an abatement of the nuisance violations at the property at 4419 S. Alder Dr., due to property owner's failure to bring property into compliance with Tempe City Codes 21-3.B.8. Mr. Gutierrez has been given ample time to come into compliance and maintain the property. There has been no indication Mr. Gutierrez will come into compliance. The property represents a health hazard and an eyesore to the community.

Respectfully submitted,

Jack Scofield  
Code Inspector II

ACTION TAKEN: submit  
NAME Jack Scofield  
DATE: 9-20-2010



**COMMUNITY DEVELOPMENT DEPARTMENT  
CODE COMPLIANCE  
CORRECTION NOTICE**

08/11/10

GUTIERREZ LUCIANO/LISA C  
12404 N 127TH DR  
EL MIRAGE, AZ 85335

Case#: CE102786  
Site Address: 1938 E. WATSON DR TEMPE, AZ 85283

**SITE REINSPECTION ON OR AFTER: 08/30/2010**

This is a notice to inform you that this site was inspected on 08/11/10 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.

**VIOLATION SECTION:**

**Violation of City of Tempe Code 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.

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:**

- 1. REMOVE DEAD TREE FROM FRONT YARD. STUMP NEEDS 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.

**Jack Scofield  
Code Inspector II  
E-Mail**

**Direct: 480-350-8967  
Code Compliance: 480-350-8372  
jack\_scofield@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.

**Sec. 21-43.D Notice to comply**

*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.



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

08/30/10

GUTIERREZ LUCIANO/LISA C  
12404 N 127TH DR  
EL MIRAGE, AZ 85335

Case#: CE102786  
Site Address: 1938 E. WATSON DR TEMPE, AZ 85283

**SITE REINSPECTION ON OR AFTER: 09/13/2010**

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**Jack Scofield  
Code Inspector II  
E-Mail**

**Direct: 480-350-8967  
Code Compliance: 480-350-8372  
jack\_scofield@tempe.gov**

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CASE # CE102786



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 09/17/2010

**GUTIERREZ LUCIANO/LISA C**  
**12404 N 127TH DR**  
**EL MIRAGE, AZ 85335**

**BANK OF AMERICA**  
**400 COUNTRYWIDE WAY SV-35**  
**SIMI VALLEY, CA 93065**

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

**Legal:** TEMPE GARDENS UNIT SEVEN  
**Location:** 4419 S ALDER DR TEMPE, AZ 85282  
**Parcel:** 133-39-010

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This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of **10/19/2010**. 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 DEAD TREE IN FRONT YARD. STUMP NEEDS TO BE REMOVED OR CUT TO GROUND LEVEL**

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 **\$484.00**. 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.**

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**Code Inspector: Jack Scofield**  
**Phone Number: (480)350-8967**  
**E-mail: jack\_scofield@tempe.gov**



