

# Staff Summary Report



Hearing Officer Hearing Date: August 17, 2010

Agenda Item Number: 10

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Helmers Residence located at 1838 East Riviera Drive.

**DOCUMENT NAME:** 20100817dssl03 **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 **HELMERS RESIDENCE (PL100224/ABT10014/CE100898)** (Jody Benson, Inspector; Jason Helmers, property owner) located at 1838 East Riviera 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

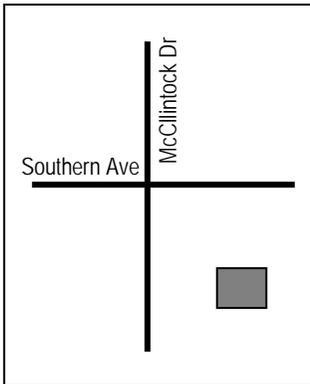
**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

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

**ADDITIONAL INFO:**

Code Compliance is requesting approval to abate the Helmers Residence located at 1838 East Riviera Drive in the R1-6, Single Family Residential District. The property is located south of Southern and east of McClintock Dr. 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 CE100898: for deteriorated landscape.



**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 Helmers Residence located at 1838 East Riviera Drive in the R1-6, Single Family Residential District. This case was initiated on April 7, 2010 following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Jason Helmers, regarding violations of the Tempe City Code for deteriorated landscape.

Mr. Helmers has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to deteriorated landscape.

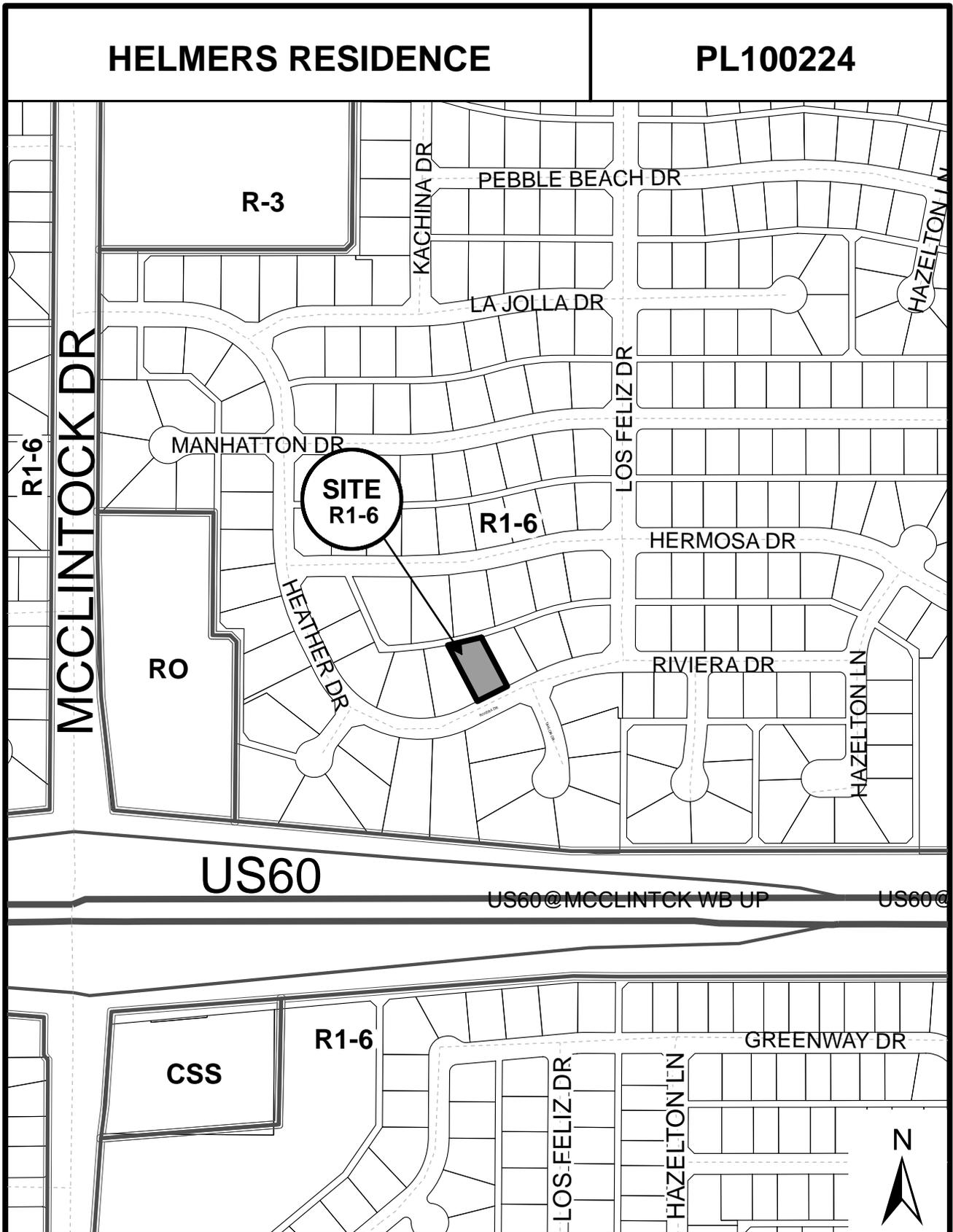
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

**HISTORY & FACTS:**

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

**HELMERS RESIDENCE**

**PL100224**



**Location Map**



**HELMERS RESIDENCE (PL100224)**

**DATE:** July 20, 2010  
**TO:** Jeff Tamulevich Code Compliance Administrator  
**FROM:** Jody Benson, Code Inspector II  
**SUBJECT:** Request for Authorization to Abate Complaint CE100898

---

**COMPLAINT:** CE100898

**LOCATION:** 1838 E Riviera Drive, Tempe, AZ 85282

**LEGAL:** LOT 80, MCCLINTOCK MANOR, ACCORDING TO BOOK 210 OF MAPS, PAGE 19, AND AFFIDAVITS OF CORRECTION RECORDED AT DOCKET 13597, PAGE 210 AND DOCKET 13751, PAGE 550, RECORDS OF MARICOPA COUNTY, ARIZONA.

**OWNER:** Jason Helmers  
1838 E Riviera Drive  
Tempe AZ 85282

**FINDINGS:**

- 03/26/10 Received a complaint for deteriorated landscape.
- 04/07/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and posted a green courtesy hanger for grass and weeds in the gravel landscape.
- 04/16/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and noted that the property appeared vacant. Grass and weeds still growing uncontrolled in the gravel portions of the landscape. A final notice was sent to the owner.
- 05/05/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and found grass and weeds still growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape.
- 05/06/10 City of Tempe Temporary Code Inspector Kristen Battafarano attempted to contact the owner by phone to no avail.
- 05/08/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and found grass and weeds still growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape.
- 05/12/10 City of Tempe Temporary Code Inspector Kristen Battafarano attempted to contact the owner by phone to no avail.
- 05/14/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and found grass and weeds still growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape. Photos were taken and a citation for deteriorated landscape was mailed.
- 05/28/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and found grass and weeds still growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape.
- 06/03/10 City of Tempe Temporary Code Inspector Kristen Battafarano inspected the property and found grass and weeds still growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape. Inspector Battafarano spoke with a neighbor that provided information that the owner may be in London, England.
- 06/21/10 City of Tempe Code Inspector Jody Benson inspected the property and found grass and weeds still

growing uncontrolled in the gravel portions of the landscape and over height grass and weeds in the grass portions of the landscape.

- 06/22/10 An estimate for abatement was requested from City of Tempe authorized Abatement Contractor Jack Harrington.
- 07/15/10 City of Tempe Code Inspector Jody Benson inspected the property and found no changes. Photographs were taken and a 30 day notice of intent to abate was posted to the property indicating a public hearing on 08/17/10. That notice was mailed also.
- 07/20/10 City of Tempe Code Inspector Jody Benson submitted request for abatement of this case at the public hearing on the 08/20/10

#### **COMPLAINT HISTORY**

The following history reflects all valid complaints on this property since Jason Helmers established ownership of 1838 E Riviera Drive in June 30<sup>th</sup> of 2000.

- CE011073 **March of 2001 through March of 2001** complaint for deteriorated landscape. In compliance in less than one month. Donald Alexander was the inspector.
- CE082193 **March of 2008 through May of 2008** complaint for deteriorated landscape. In compliance in two months. Brett Barnes was the inspector.
- CE084553 **June of 2008 through August of 2008** complaint for deteriorated landscape. In compliance in less than one month. Brett Barnes was the inspector.
- CE086922 **September of 2008 through November of 2008** complaint for deteriorated landscape. In compliance in less than one month. Brett Barnes was the inspector.

#### **RECOMMENDATIONS:**

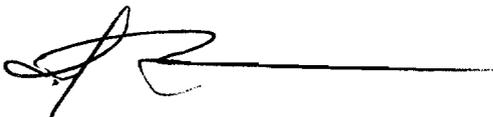
The property at 1838 E Riviera Drive appears to be vacant and is in foreclosure. The auction date of 07/20/10 was moved to 08/20/10. The property is in violation of deteriorated landscaping. Notice of this violation have been posted to the property and/or mailed to the last known address for Jason Helmers. The homeowner, Jason Helmers, failed to appear in court on the citation that was issued for deteriorated landscape on 05/14/10.

There have been 4 prior cases at the property for deteriorated landscape. The property has been allowed to fall back into violation.

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.

Jason Helmers 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 II

CASE # CE100898



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 07/15/10

TO: JASON HELMERS  
1838 E RIVEIRA 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 DESCRIPTION: LOT 80, MCCLINTOCK MANOR, ACCORDING TO BOOK 210 OF MAPS, PAGE 19, AND AFFIDAVITS OF CORRECTION RECORDED AT DOCKET 13597, PAGE 210 AND DOCKET 13751, PAGE 550, RECORDS OF MARICOPA COUNTY, ARIZONA.

LOCATION: 1838 E RIVIERA 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 08/17/2010. 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:

**Removal of all grass and weeds in the gravel portions of the landscape.**

**Cut any tall or over height grass in the landscape.**

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 \$264.00. 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



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

04-16-2010

HALMERS JASON  
1838 E RIVIERA DR  
TEMPE AZ 85282-5866

Case#: CE100898  
Site Address: 1838 E RIVIERA DR

**SITE REINSPECTION ON OR AFTER: 05/04/2010**

This is a notice to inform you that this site was inspected on 04/16/2010 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.8	Landscaping that is substantially dead damaged or characterized by uncontrolled growth

**PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION**

CC 21-3.b.8	Please remove grass and weeds from gravel area of front yard landscape
-------------	--

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

**Kristen Battafarano**  
Code Inspector

**Direct: 480-350-2893**  
**Code Compliance: (480)350-8372**  
**Email: kristen\_battafarano@tempe.gov**

**Civil and Criminal Penalties**

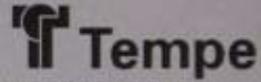
City Code Section 21-3, subsections (b) 1-8, 15 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$150 per violation, 2nd occurrence \$250 per violation, 3rd occurrence \$350 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$250 per violation, 2nd occurrence \$450 per violation, 3rd occurrence \$650 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$350 per violation, 2nd occurrence \$650 per violation, 3rd occurrence \$950 per violation. | Section 21-25: \$1000 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 \$500 in addition to other fines, 2nd occurrence \$1000 in addition to other fines, 3rd occurrence, \$1500 in addition to other fines. | Zoning and Development Code: 1st occurrence \$120 per violation, 2nd occurrence \$370 per violation, 3rd occurrence \$770 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.







CASE # CE100898



### NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 07/15/10

TO: JASON HELMERS  
1838 E RIVEIRA 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 DESCRIPTION: LOT 80, MCCLINTOCK MANOR, ACCORDING TO BOOK 210 OF MAPS, PAGE 19, AND AFFIDAVITS OF CORRECTION RECORDED AT DOCKET 13597, PAGE 210 AND DOCKET 13751, PAGE 550, RECORDS OF MARICOPA COUNTY, ARIZONA.

LOCATION: 1838 E RIVIERA 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 08/17/2010. 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:

Removal of all grass and weeds in the gravel portions of the landscape.

Cut any tall or over height grass in the landscape.

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 \$284.00. 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 shall become a lien on the property whether or not the public nuisance is abated by the City.

07/15/2010 10:51



07/15/2010 10:52

