Staff Summary Report

Tempe

Hearing Officer Hearing Date: January 15, 2008 Agenda Item Number: 12

SUBJECT: This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items located at the ROWE RESIDENCE located at 1405 North Rose Street.

DOCUMENT NAME: 20080115dssd06 PLANNNED 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 ROWE RESIDENCE (PL070487/ABT07029) (Richard Rowe, property owner) Complaint CE073237 located at 1405 North Rose Street in the R1-6, Single Family Residential District.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)
Nick Graves, Planning Intern (480-350-8942)

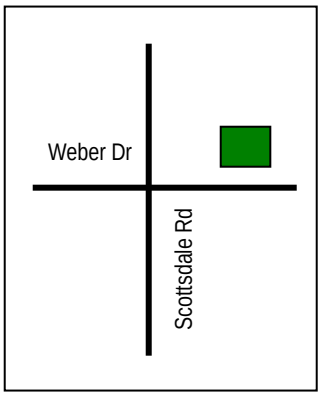
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) LEA

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 ROWE RESIDENCE (PL070487/ABT07029) (Richard Rowe, property owner) Complaint CE073237 located at 1405 North Rose Street 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 the authorization of abatement of this property.



PAGES:	1. List of Attachments 2. Comments; History & Facts/Description
ATTACHMENTS:	1. Location Map(s) 2. Aerial Photo(s) 3-15. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the ROWE RESIDENCE (PL070487/ABT07029) (Richard Rowe, property owner) Complaint CE073237 located at 1405 North Rose Street 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 Andres Lara, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

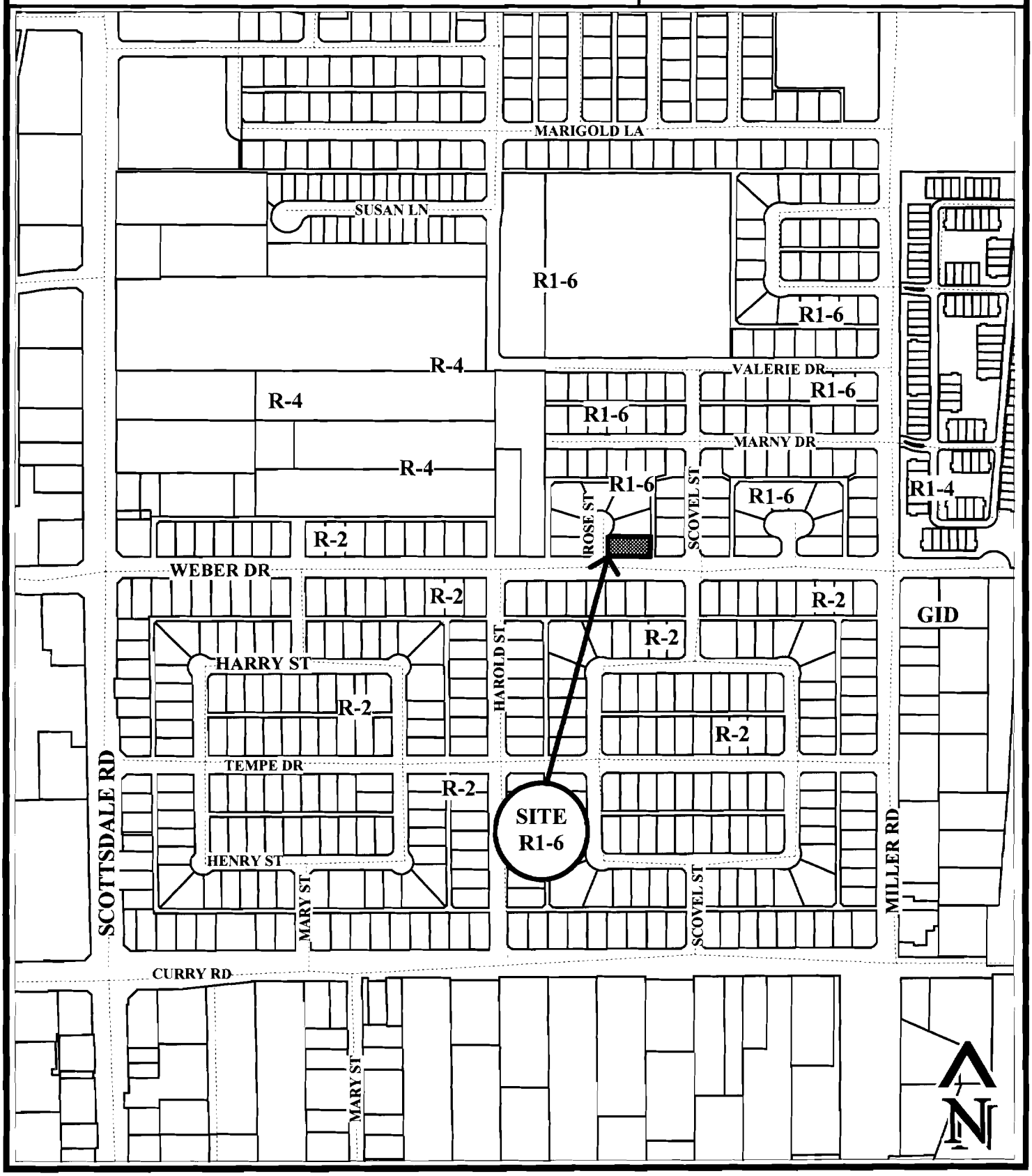
Staff recommends the authorization of abatement of this property.

HISTORY & FACTS:	See attached memo from the Neighborhood Enhancement Division.
December 18, 2007	Hearing Officer granted a continuance for the Rowe Residence due to progress. Continued to the January 15, 2008 hearing.
DESCRIPTION:	Owner – Richard Rowe Applicant – Andres Lara, COT Neighborhood Enhancement Existing zoning – R1-6, Single Family Residential District Lot area – 9,050 s.f./.20 acres Building area – 1,120 s.f. Year of construction – 1970

Tempe

ROWE RESIDENCE

PL070487



Location Map

ATTACHMENT 1

ROWE RESIDENCE (PL070487/ABT07029)

DATE: 11/07/2007

TO: Jan Koehn, Code Compliance Manager

FROM: Andres Lara

SUBJECT: Richard L. Rowe Property Abatement

LOCATION: 1405 N Rose St, Tempe, AZ 85281

LEGAL: Book 132, Map 10, Parcel 011, as recorded with the Maricopa County Assessor

OWNER: Richard L. Rowe
1405 N Rose St.
Tempe, AZ 85281

FINDINGS:

06/19/2007 Based on a complaint observed (3) three inoperable vehicles, excessive wood pieces not neatly stacked, sink, toilet parts, trash, junk and debris, dead overgrown weeds throughout the back yard. Front yard has trash, litter and debris which included palm tree fronds.
Courtesy notice sent to owner.

07/19/2007 Observed no changes in the front and back yard. Owner did not make an attempt to clean front or back yard. Second notice to comply mailed.

07/27/2007 Mike Spencer inspected and observed no changes and/or an attempt to clean front or back yard.

08/02/2007 Final notice to comply posted to the front door with corrective action due 09/03/07.

09/11/2007 Observed items such as wood pallets, trash and debris removed from the north west side of the back yard and thrown in the alley and leaned against the back yard wood fence. Trash and debris in the rest of the back yard and the front yard were not removed. As I leaned over to observed back yard porch, there was a cat or dog waste odor.

11/07/2007 Observed no changes, improvements or an attempt made to correct violations. There were 4 cats roaming around the front yard and an odor of cat and dog waste in the front and south side yards.

11/07/2007 Notice of abatement hand delivered and mailed to the owner.

HISTORY:

04/13/1999– 05/27/1999	Junk and debris, complied with notice.
04/02/2001– 04/23/2001	Junk vehicle complaint, complied with notice.
04/18/2002– 04/11/2003	Dead landscaping, junk, debris and inoperable vehicles, complied in 12 months.

RECOMMENDATIONS:

Three written and one verbal notice were given to the property owner Richard L. Rowe concerning the problems at the residence with no response. Richard L. Rowe has failed to correct the violations and staff feels that the only solution to rectify the problems at the residence is to conduct an abatement of the property. I therefore request the City of Tempe Development Services Abatement Hearing Officer for authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code.

Respectfully submitted,
Andres Lara
City of Tempe Code Inspector

Tempe

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

Code Compliance Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: November 7, 2007

TO: Richard L. Rowe
1405 N Rose St
Tempe, AZ 85281

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

LEGAL: **Book 132, Map 10, Parcel 011, as recorded with the Maricopa County Assessor.**

LOCATION: 1405 N Rose St 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 December 18, 2007. 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:

Junk, trash and debris including palm tree fronds in the front yard. Junk, trash and debris including all palm tree fronds inside the above ground swimming pool, sink, toilet, wood not neatly stacked, excessive dead overgrown grass and weeds in the backyard area. Remove at least one of the three (3) vehicles parked in the backyard area. (Ref - TCC 21-3-b-1, 3, 8).

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 $3, 530.00. 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 Enforcement Officer: Andres Lara **Phone Number 480-858-2289**

CASE # CE073237

COMPLAINT: YES NO

City of Tempe Code Compliance Division
Courtesy Notice
We need your help to keep our City clean

This is a courtesy notice to inform you that on 6/19/07, 1405 N Rose St.,
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 II of the Tempe City Code. A re-inspection will be conducted on or after the date indicated to verify compliance. If the property is brought into compliance with the code by 7/19/07, you will not be subject to citations or fines for the violation(s). We appreciate your cooperation in this matter. For questions or further information please contact the Code Compliance Division at 480-350-8372.

21-3 (b) (1): Filthy, littered, debris or trash covered exterior areas, including exterior areas under any roof area not enclosed by the walls, doors or windows of any building; including but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled.

21-3 (b) (3): Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:

a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;

b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;

c. Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

d. Lawful commercial activities involving vehicles as allowed by the zoning ordinance; or

e. Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city 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 by 7/19/07

Required Correction(s):

1. **Remove all trash, litter and debris in the front yard.**
2. **Remove all trash, litter & debris including sink, toilet, wood not neatly stacked, excessive dead overgrown grass & weeds in the backyard area.**
3. **Remove at least one of the three (3) vehicles parked in the backyard area.**

Note: Front and backyard area must be maintained free of trash, litter and debris at all times and not more than two (2) inoperable or unregistered vehicles in the backyard.

If the violations have not been corrected by this date and additional re-inspections are necessary it could result in civil citation, criminal charges or abatement of the violation.

Richard Rowe
1405 N Rose St
Tempe, AZ 85281

Code Inspector: Andres Lara **Phone Number 480-858-2289**

CASE #CE073237

City of Tempe Code Compliance Division
Notice to Comply: Article I. Nuisances
FINAL NOTICE

Mailed on Date: 07/19/07

Richard Rowe
1405 N Rose St
Tempe, AZ 85281

This notice to comply is to inform you that on 07/19/07 , the property located at 1405 N Rose St. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 08/02/07 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).

21-3 (b) (1): Filthy, littered, debris or trash covered exterior areas, including exterior areas under any roof area not enclosed by the walls, doors or windows of any building; including but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled.

21-3 (b) (3): Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:

a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;

b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;

c. Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

d. Lawful commercial activities involving vehicles as allowed by the zoning ordinance; or

e. Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

Inoperable vehicle **means a vehicle that is physically incapable of its intended operation, or unable to be safely operated at that time, including but not limited to vehicles on blocks or similar devices, with tire or tires, or from which the engine, wheels or tires have been removed.**

Off-road vehicle **means a recreational vehicle designed for off-road use and not required to be licensed, including without limitation all-terrain vehicles, motocross cycles, sand rails and dune buggies.**

Vehicle **means a machine propelled by power other than human power designed to travel along the ground, water or air to transport persons, property or machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, boat or aircraft.**

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 by: 08/02/07

Required Correction(s):

1. **Remove all trash, litter and debris in the front yard including palm tree fronds.**
2. **Remove all trash, litter & debris including sink, toilet, wood not neatly stacked, excessive dead overgrown grass & weeds in the backyard area.**
3. **Remove at least one of the three (3) vehicles parked in the backyard area.**

Note: Front and backyard area must be maintained free of trash, litter and debris at all times and not more than two (2) inoperable or unregistered vehicles in the backyard.

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 $100 dollars per violation, 2nd occurrence $200 dollars per violation, 3rd occurrence $300 dollars per violation.
Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence $300 dollars per violation, 2nd occurrence $600 dollars per violation, 3rd occurrence $900 dollars 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 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: Andres Lara

Phone Number: 480-858-2289
E-mail: andres_lara-reyes@tempe.gov

CASE #CE073237

City of Tempe Code Compliance Division
Notice to Comply: Article I. Nuisances
FINAL NOTICE

Mailed on Date: 08/02/07

Richard Rowe
1405 N Rose St
Tempe, AZ 85281

This notice to comply is to inform you that on 08/02/07 , the property located at 1405 N Rose St. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 09/03/07 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).

21-3 (b) (1): Filthy, littered, debris or trash covered exterior areas, including exterior areas under any roof area not enclosed by the walls, doors or windows of any building; including but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled.

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Please take the following corrective action by: 09/03/07

Required Correction(s):

1. **Please remove all trash, litter and debris in the front yard including palm tree fronds.**
2. **Please remove all trash, litter & debris including all items not neatly stacked in the back yard porch, all palm tree fronds inside the above ground swimming pool in the back yard, sink, toilet, wood not neatly stacked, excessive dead overgrown grass & weeds in the backyard area.**
3. **Please remove at least one of the three (3) vehicles parked in the backyard area.**

Note: Front and backyard area must be maintained free of trash, litter and debris at all times and not more than two (2) inoperable or unregistered vehicles in the backyard.

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Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence $300 dollars per violation, 2nd occurrence $600 dollars per violation, 3rd occurrence $900 dollars 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 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: Andres Lara

Phone Number: 480-858-2289
E-mail: andres_lara-reyes@tempe.gov

Bishop Inc.
6340 S. Rural Rd. #118-217
Tempe AZ 85283
PH: (602) 339-2082 Fax (480) 413-1691

#71075

Estimate

Name:	City of Tempe
Address:	P.O.Box 5002
City:	Tempe, Az. 85281
Attn:	Code of Compliance

Date	10/19/2007
Order #	
Customer #	
Our Order #	

Qty	Description	Unit Price	Total
	Work done at: 1405 N. Rose		
	Scope of work:		
1	Cut down tall weeds and grass on property.		
2	Clean up trash and debris, non-working and/or non-repairable items as directed by Code Compliance personal.		
3	Area includes front yard, back yard, and items inside open carport areas		
4	Removal of 3 vehicle	$150.00	$450.00
5	City of Tempe 40 yard roll off (3)	$265.00	$795.00
	Estimate labor cost		$2,000.00
	Police officer to be on site during abatment (6 hours)	$47.50	$285.00
	Contract # T05-102-01		
		Total:	$3,530.00

Disclaimer:
Prices may vary due to work completed by homeowner, and the time lapse between this estimate and the abatement date. This estimateis based on a visual inspection of the property due to no access to backyards, locked gates, occupied property and obstructions to the visual inspection such as tarps, plywood covering,over growth of trees and bushes, plastic bags, etc. etc.

ATTACHMENT 13