

# Staff Summary Report



Hearing Officer Hearing Date: November 17, 2009

Agenda Item Number: 10

**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 **STEFANIAK RESIDENCE** located at 1849 East Harvard Drive.

**DOCUMENT NAME:** 20091117dssl04

**PLANNED 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 **STEFANIAK RESIDENCE (PL090401/ABT09035)** (Thomas Stefaniak, property owner) Complaint CE095290 located at 1849 East Harvard 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

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval

**ADDITIONAL INFO:** The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **STEFANIAK RESIDENCE (PL090401/ABT09035)** (Thomas Stefaniak, property owner) Complaint CE095290 located at 1849 East Harvard 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 recommends the authorization of abatement of this property.



**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-14. Neighborhood Enhancement Report

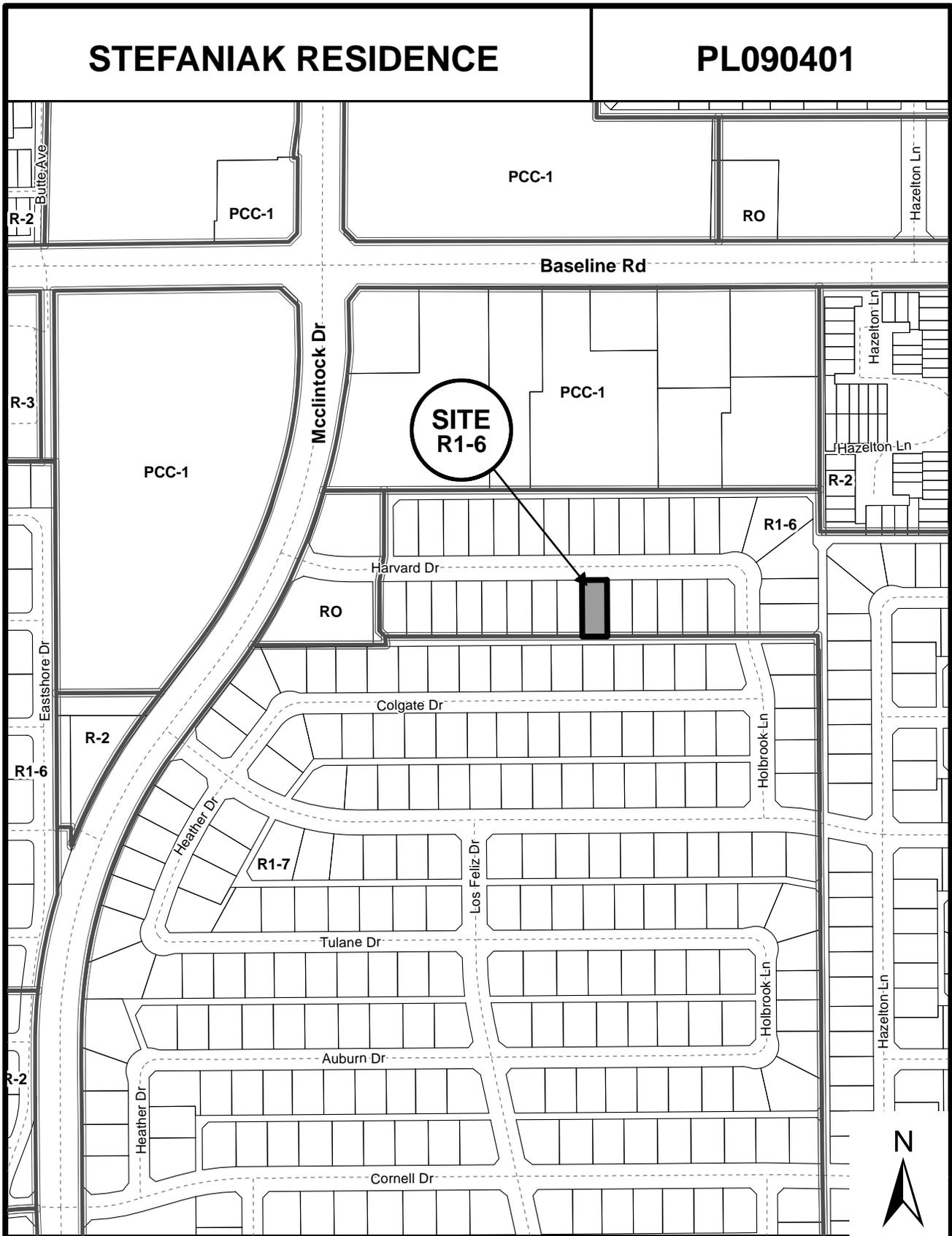
**COMMENTS:**

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **STEFANIAK RESIDENCE (PL090401/ABT09035)** (Thomas Stefaniak, property owner) Complaint CE095290 located at 1849 East Harvard 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. Refer to the attached memo and photos from Don Alexander, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

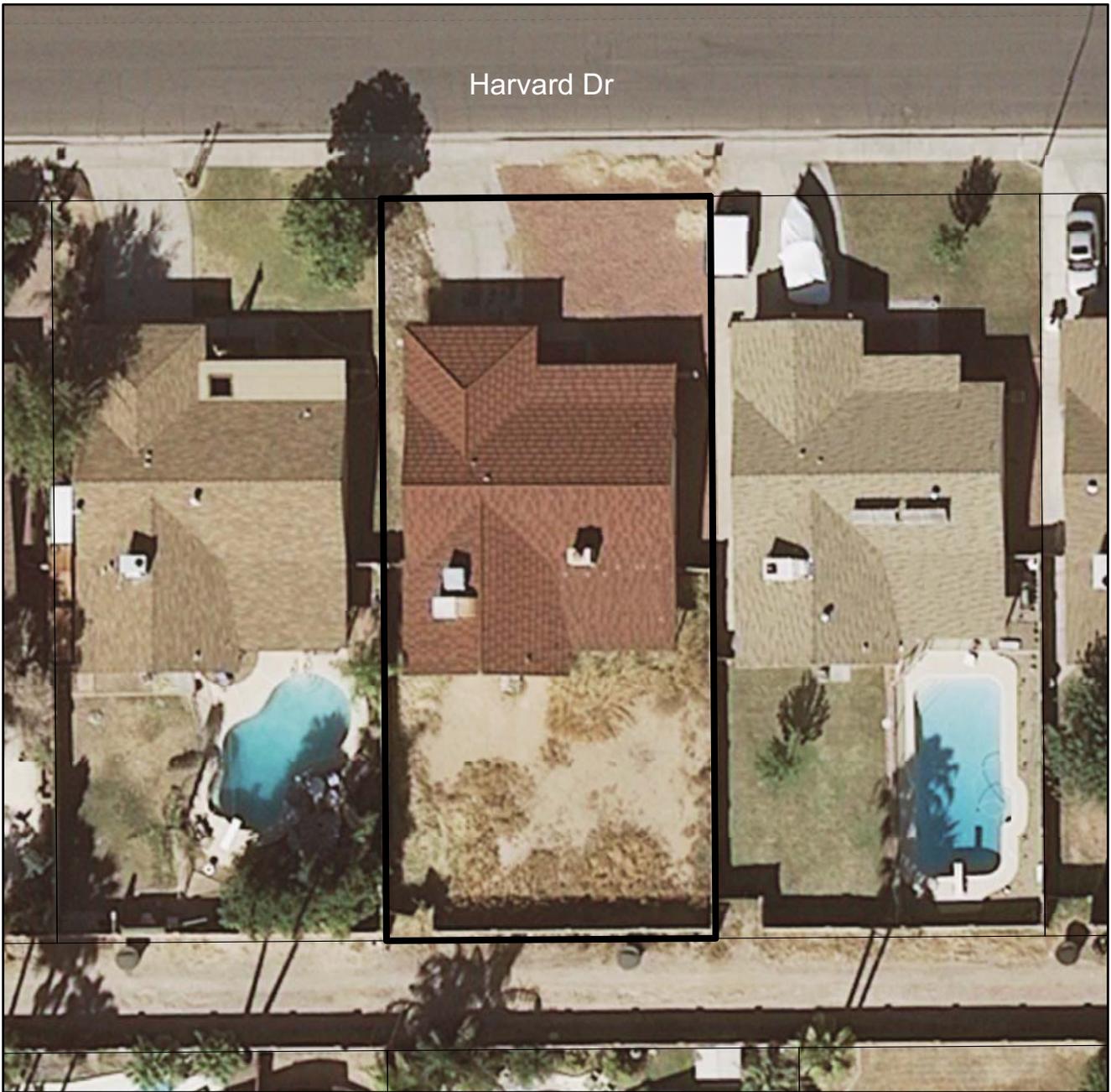
Staff recommends the authorization of abatement of this property.

**HISTORY & FACTS:** See attached memo from the Neighborhood Enhancement Division.

**DESCRIPTION:** Owner – Thomas Stefaniak  
Applicant – Don Alexander, COT Neighborhood Enhancement  
Existing Zoning – R1-6, Single Family Residential District



**Location Map**



**STEFANIAK RESIDENCE (PL090401)**

**DATE:** 10/15/2009

**SUBJECT:** Thomas Stephen Stefaniak Property Abatement

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**LOCATION:** 1849 E Harvard Drive

**LEGAL:** Book 301, Map 01, Parcel 960, as recorded with the Maricopa County Assessor

**OWNER:** Thomas Stephen Stefaniak  
1849 E Harvard Drive  
Tempe, AZ 85283

**PRIOR HISTORY:**

2/14/2001 The Code Compliance Division received a complaint on the above property concerning over height weeds in the backyard.

2/15/2001 The property was inspected and found to have weeds approximately 3 to 4 feet in height throughout the backyard. Notice was mailed to the owner, to have the weeds cut in the backyard.

3/6/2001 The weeds in the backyard appear to have been sprayed with weed killer, some are brown and wilted. No attempt has been made to cut the weeds. Weeds are starting to become over height in the front yard. Second notice was mailed to the owner, to have weeds cut on the front and backyards.

3/22/2001 The weeds on the front and backyards appear to be dying, but none of them have been cut. Final notice was mailed to the owner, to have the weeds cut on the front and backyards.

4/12/2001 The weeds on the front yard have been cut down. The weeds on the backyard appear dead but have not been cut down. Note was posted on the front door informing the owner that if the weeds are not cut by 04/16/2001 a citation will be issued.

4/16/2001 No change in the condition of the weeds, in the backyard. Citation will be issued on 04/17/2001 if not in compliance.

4/17/2001 Weeds in the backyard still have not been cut. Height of weeds approximately 3 to 4 feet. First citation was posted on the front door.

5/3/2001 Mr. Stefaniak was Failure to Appear on the first citation. No change in the condition of the weeds, in the backyard. Second citation was posted on the front door.

5/21/2001 Mr. Stefaniak was Failure to Appear on the second citation. No change in the condition of the weeds, in the backyard. Third citation was posted on the front door.

6/7/2001 No change in the condition of the weeds in the backyard. Front yard again has

over height weeds growing.

6/22/2001 Mr. Stefaniak was Failure to Appear on the third citation. No change in the condition of the front or backyard.

7/16/2001 No change in the condition of the property.

7/19/2001 Criminal charges filed with the City Prosecutors Office.

12/24/2001 Check of court records showed that a warrant was issued on 08/23/2001.

8/1/2002 Mr. Stefaniak appeared in court and was placed on two years unsupervised probation.

4/3/2003 New complaint was received concerning Mr. Stefaniak's property. Inspection of the property revealed the following problems. Front yard of the property consist of dead grass and weeds with large areas of bare dirt. Backyard is full of over height weeds approximately 3 to 4 feet in height.

4/16/2004 A request was filed with the City Prosecutors Office to revoke Mr. Stefaniak's probation for failure to meet the conditions of Plea Agreement #01-5074224-1.

5/6/2004 Mr. Stefaniak was picked up on warrant and posted a \$500.00 dollar bond. Arraignment was set for 05/13/2004.

5/13/2004 Mr. Stefaniak entered a plea of guilty and paid a \$941.00 dollar fine. Case was closed by the court.

6/10/2004 Mr. Stafaniak's property was inspected and found to still be in violation of City Codes. Front yard has over height weeds with large areas of bare dirt. Backyard has over height weeds 3 to 4 feet in height throughout. Notice was sent for correction of the violations.

7/19/2004 No change in the condition of the property. Front yard landscape is still deteriorated with the backyard still overgrown with weeds.

11/17/2004 Mr. Stefaniak appeared in court and entered a plea of guilty for the violations. A fine of \$500.00 dollars was imposed.

12/23/2004 Fine payment was received by the Court and the case was closed.

3/14/2005 New complaint was received concerning the appearance of the property.

3/15/2005 Property was inspected with the following results. The front yard consists of dead grass and weeds with large areas of bare dirt, some areas of the front yard do have living weeds over two feet in height. The backyard is completely overgrown with weeds over two to three feet in height.

4/6/2005 Criminal charges were filed with the city prosecutor's office.

11/29/2005 No change in the condition of the property.

1/13/2006 The front yard has recently been landscaped with gravel. The backyard still has grass and weeds in excess of 3 to 4 feet in height throughout. Bid has been received from Bishop Inc. in the amount of \$475.00 dollars to clear the backyard.

6/2/2008 The property was inspected and found to have weeds approximately 2 to 4 feet in height throughout the front, bothside, and rear yards. Notice was posted to the property owner's front door to have the all weeds and grasses within the front graveled front and side yards removed and to cut down the overheight dead weeds within the entire rear yard area.

6/10/2008 Fire Department Inspector Daniel Dubois has determined that the dead overheight weeds/grasses on the property are a fire hazard.

6/17/2008 No change in the status of the property. Contacted KES to get a bid to do an emergency abatement.

6/19/2008 KES faxed in a bid of \$812.00.

6/19/2008 Property posted for an emergency abatement set for 6/27/2008.

6/30/2008 Property abated.

11/1/2008 The property was inspected and found to have weeds approximately 2 to 4 feet in height throughout the front, bothside, and rear yards. Notice was posted to the property owner's front door to have the all weeds and grasses within the front graveled front and side yards removed and to cut down the overheight dead weeds within the entire rear yard area.

11/15/2008 The property was inspected for a second time and found to have weeds approximately 2 to 4 feet in height throughout the front, bothside, and rear yards. Notice was posted to the property owner's front door to have the all weeds and grasses within the front graveled front and side yards removed and to cut down the overheight dead weeds within the entire rear yard area.

12/2/2008 No change in the status of the property.

12/12/2008 Contacted Jack Harrington to get a bid to do an abatement.

12/15/2008 Jack Harrington faxed in a bid of \$464.00.

12/16/2008 Property posted for an abatement hearing set for January 20, 2009.

**FINDINGS:**

9/16/2009 The property was inspected and found to have grass and weeds over 3 to 4 feet in height within the front, bothside, and rear yard areas. Notice was posted to the property owner's front door to have the all weeds and grasses within the al yards removed.

9/29/2009 No change in the status of the property.

10/9/2009 Contacted Jack Harrington to get a bid to do an abatement.

10/14/2009 Jack Harrington e-mailed in a bid of \$552.00.

10/14/2009 Property posted for an abatement hearing set for November 17, 2009.

**RECOMMENDATIONS:**

Mr. Stefaniak has had three civil citations, criminal charges filed three times, probation revoked once, and since 1993 had 14 complaints concerning the same nuisance code issues. Mr. Stefaniak pays the fines for all of these actions, but makes absolutely no effort to remove the overheight grass or weeds within the front, bothside, and rear yards of this residence. I therefore request the City of Tempe Development Services Abatement Hearing Officer for a 180 day standing abatement order in accordance with Section 21-53 of the Tempe City Code.

Respectfully submitted,

Donald Alexander  
Code Inspector II  
City of Tempe

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: DON ALEXANDER  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS \_\_\_\_ PAGE(S)

DATE: 10-14-09      TIME: \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.

**PROPOSAL**

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

ADDRESS: 1849 E HARVARD  
CLEAN FRONT AND BACK YARDS AT 1849 E HARVARD  
4 MEN 4HOURS @22.00/                      \$352.00  
  
TEMPE POLICE 4@50.                              200.00  
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TOTAL    \$ 552.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

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City of Tempe  
P. O. Box 5002  
Tempe, AZ 85280  
www.tempe.gov  
(480) 350-8372  
(480) 858-2278 (fax)

Neighborhood Enhancement Division

## **NOTICE OF INTENT TO ABATE PUBLIC NUISANCE IMMEDIATE THREAT TO THE HEALTH OR SAFETY OF THE PUBLIC**

**DATE: 10/14/2009**

**TO: Property owner Thomas S. Stefaniak**

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

**LEGAL: Book 183, Map 44, Parcel 301-01-960, as recorded with the Maricopa County Assessor.**

**LOCATION: 1849 E Harvard Drive, Tempe, Arizona 85283**

**This office will abate this public nuisance in accordance with Section 21-53 and Resolution 2006.41, III B.8, of the Tempe City Code by removal and repair of:**

**Please completely remove all weeds, grasses, dead weeds, dead grasses, or other dead vegetation within all yards that present a fire hazard from the property as deemed by the Tempe Fire Department.**

**As owner of the property, you have until 11/17/2009 after receipt of this letter to abate or correct the violation. If the violations have not been corrected within this time period, our office will proceed with the abatement process.**

**The necessary work will be performed at the expense of the property owner. The cost of this work will be \$ 552.00 . 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: Donald Alexander**

**Phone Number: 480-350-8077**

CASE # CE095290



CODE INSPECTOR DONALD ALEXANDER  
480-350-8077  
E-MAIL: [donald\\_alexander@tempe.gov](mailto:donald_alexander@tempe.gov)  
Date Mailed: 9/16/09

STEPHEN T STEFANIAK  
1849 E HARVARD DR  
TEMPE, AZ 85283  
**NOTICE TO COMPLY**

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

This notice to comply is to inform you that on 9/16/09, 1849 E HARVARD DR 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 9/29/09 or after the date indicated 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).

- (a) It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance.
- (b) A nuisance includes any one or more of the following conditions:

**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**

Required Correction(s):

- **PLEASE CUT/REMOVE THE OVERHEIGHT GRASS/WEEDS LOCATED WITHIN ALL YARDS TO AVOID AN ABATEMENT PROCESS.**

*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.*

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**Civil and Criminal Penalties**

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1<sup>st</sup> occurrence \$350 dollars per violation, 2<sup>nd</sup> occurrence \$650 dollars per violation, 3<sup>rd</sup> occurrence \$950 dollars per violation.

Habitual Offender 21-4(b) 1<sup>st</sup> occurrence \$500 dollars + sum of other fines, 2<sup>nd</sup> occurrence \$1000 dollars + sum of other fines, 3<sup>rd</sup> occurrence \$1,500 dollars + sum of other fines.

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

(d) *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.

(e) *Notification–habitual offender.* Complaints on properties owned by habitual offenders will proceed through an expedited process. The expedited process applies to any person who meets the definition of habitual offender, whether or not the person has been convicted under § 21-4(b). Habitual offenders are not entitled to a time period to cure infractions or other written or formal notice of violations. Upon discovering that a property is owned by a habitual offender, the code inspector may:

- (1) Initiate court or abatement action without providing written or formal notice to the responsible party;
- (2) Issue a formal notice of violation or civil infraction citation, including notification that the responsible party has been deemed a habitual offender; or
- (3) Initiate abatement action or criminal proceedings against the responsible party.

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.

CE21-1 07/18







