

# Staff Summary Report



Board of Adjustment Hearing Date: June 27, 2007

Agenda Item Number:   1  

**SUBJECT:** This is a public hearing for an appeal of the May 15, 2007 Hearing Officer's decision to approve the request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items located at the **HARING RESIDENCE** located at 3622 South Cutler Drive.

**DOCUMENT NAME:** 20070627dssa01

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for an appeal of the May 15, 2007 Hearing Officer's decision to approve request by the City of Tempe – Neighborhood Enhancement Division to abate public nuisance items in violation of the Tempe City Code for the **HARING RESIDENCE (PL070170/ABT07012/ABA07004)** (Walter Haring, property owner) Complaint No. CE071449 located at 3622 South Cutler Drive in the R1-6, Single Family Residential District.

**PREPARED BY:** Steve Abrahamson, Planning and Zoning Coordinator (480-350-8359)

A handwritten signature in black ink, appearing to read 'SEA'.

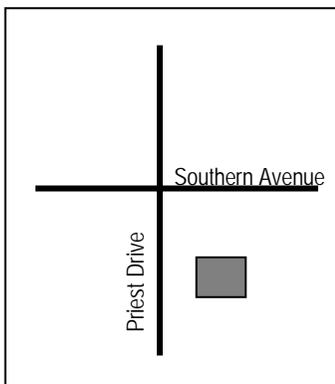
**FINAL REVIEW BY:** Lisa Collins, Planning Director (480-350-8989)

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Denial

**ADDITIONAL INFO:** On May 15, 2007 the Hearing Officer approved a request by the City of Tempe Neighborhood Enhancement Division to abate the code violation(s) on the Haring Property located at 3622 South Cutler Drive in the R1-6, Single Family Residential District. The property owner Mr. Haring, is appealing the Hearing Officer's decision. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends the denial of the request to appeal the abatement of this property.



**ATTACHMENTS:**

1. List of Attachments
  2. Comments; History & Facts/Description
- 
- A. Location Map(s)
  - B. Aerial Photo(s)
  - C. Neighborhood Enhancement Report
  - D. Staff Photographs

**COMMENTS:**

The City of Tempe Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **HARING RESIDENCE** located at 3622 South Cutler Drive in the R1-6, Single Family Residential District. On May 15, 2007 the Hearing Officer approved a request by Neighborhood Enhancement to abate the code violation(s) on the Haring Property. The property owner Mr. Haring, is appealing the Hearing Officer's decision.

The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Neighborhood Enhancement Inspections staff, for the history and facts on the enforcement of the property.

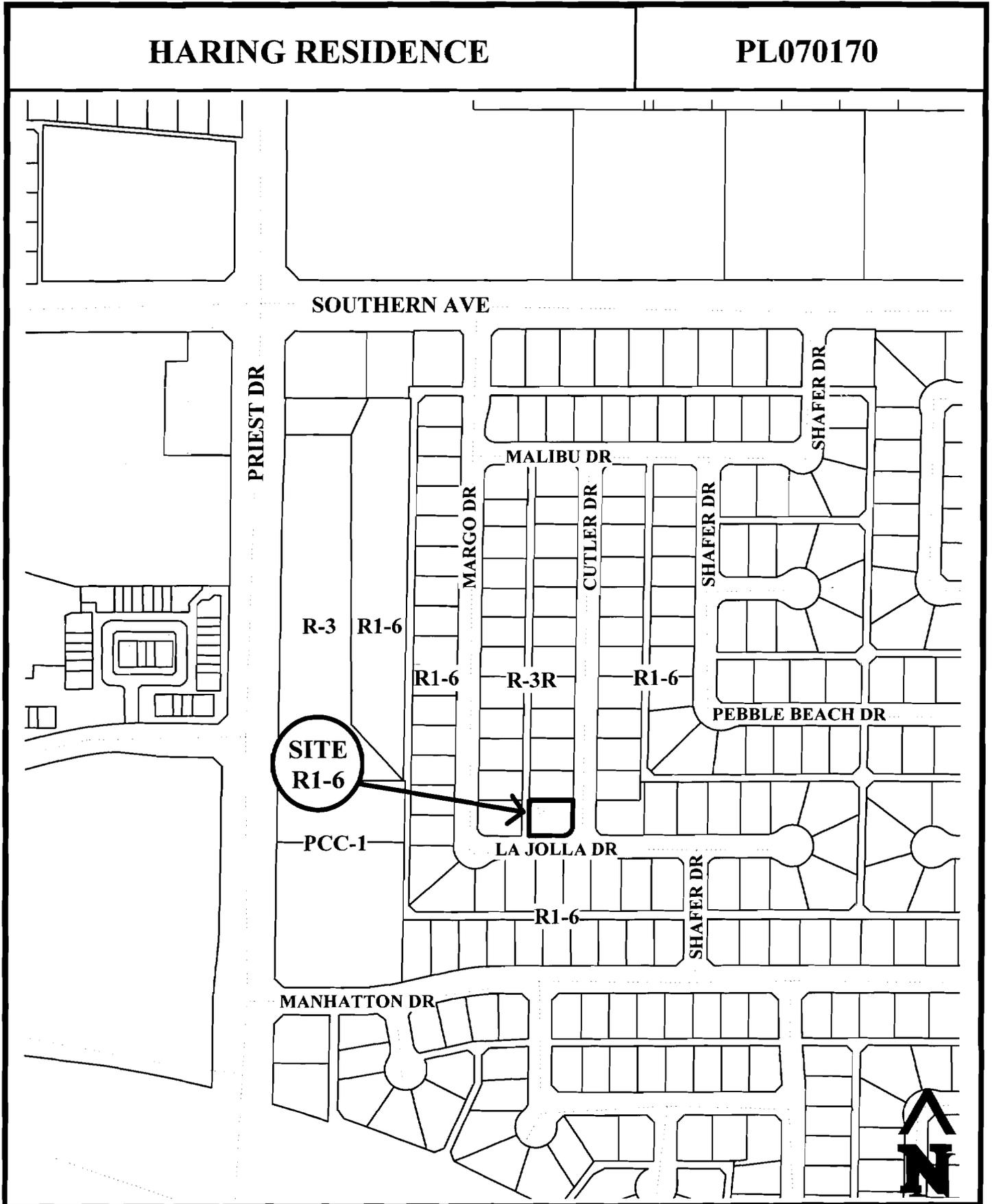
Staff recommends the denial of the request to appeal the abatement of this property.

<b>HISTORY &amp; FACTS:</b>	See attached memo from the Neighborhood Enhancement Division.
November 17, 1998	Complaint pertaining to deteriorated landscape and carport junk was abated.
December 27, 1999	Complaint pertaining to deteriorated landscape, junk and debris was abated.
March 25, 2001	Complaint pertaining to junk and debris; inoperable vehicle was abated.
July 9, 2003	Complaint pertaining to carport junk and deteriorated landscaping was abated.
July 8, 2004	Complaint pertaining to inoperable vehicle, miscellaneous junk and debris and deteriorated landscaping was abated.
May 27, 2005	Complaint pertaining to miscellaneous junk and debris, carport junk and deteriorated gate was abated.
January 1, 2007	Complaint pertaining to deteriorated roof; excessive junk and debris was abated.
March 21, 2007	Complaint pertaining to carport junk and miscellaneous junk and debris was abated.
May 15, 2007	The Hearing Officer approved the abatement for excessive trash, litter and debris; as well as two (2) inoperable vehicles.

<b>DESCRIPTION:</b>	Owner – Walter Haring Applicant – Walter Haring Existing zoning – R1-6, Single Family Residential District Lot Size – 6,663 s.f. / .15 acres Building Size – 1,120 s.f. Year Constructed - 1971
---------------------	--

HARING RESIDENCE

PL070170



Location Map



HARING RESIDENCE (PL070170/ABT07012)

**DATE:** April 10, 2007  
**TO:** Michael Spencer, Senior Code Inspector  
**FROM:** Kirk Erickson, Code Inspector II  
**SUBJECT:** Walter Haring Property Abatement

---

**COMPLAINT:** CE071449

**LOCATION:** 3622 S. Cutler Dr, Tempe, AZ 85282

**LEGAL:** Book 129, Map 16, Parcel 105, as recorded with the Maricopa County Assessor

**OWNER:** Walter L Haring & Brenda J Haring  
3622 S. Cutler Dr,  
Tempe, AZ 85282

**FINDINGS:**

03/26/2007 Neighborhood Enhancement received a complaint from the Tempe Police Department for trash, litter, and debris in the front and backyards of above listed property. The Tempe Police Department had responded to a call for service during the weekend of March 24<sup>th</sup>, and a Police Supervisor had concerns regarding the conditions of the property, along with the impact on the neighborhood.

03/29/2007 I inspected the property and found the front yard and backyard of the property was in violation for excessive amounts of trash, litter and debris. Additionally a small brown colored Honda Civic was found in the carport with at least one flat tire, making it appear inoperable. There was also a white colored Chevrolet pick-up truck in the backyard that is unregistered and visible from the street over the approximately five foot high block wall, and is piled with stored and or discarded items. Photos were taken of the property condition.

As directed, the Tempe Police Department was present at the property at the time of the inspection and when the photos were taken, due to the nature of the recent police activity at the property.

Due to the extensive history of similar violations and prior authorizations to abate the property, a request for criminal charges will be submitted to the Tempe City Prosecutor's Office.

04/06/2007 A request for an estimate for the abatement of the property was received from Bishop Inc. The estimate for the abatement and removal of items is for \$2250.00.

The request for criminal charges against Walter Haring was submitted to the Tempe City Prosecutor.

04/11/2007 Notice was posted at the property informing the property owner that the abatement request will be heard at the May 15<sup>th</sup> Hearing Officer meeting at the Tempe City Council Chambers at 1:30 pm..

### **COMPLAINT HISTORY**

CE990787 03/16/1999 thru 12/27/1999 Complaint for deteriorated landscape and excessive amounts of junk litter and debris through out the property. Complaint took over nine months to gain compliance, and Don Alexander was the Inspector.

CE014181 11/13/2001 thru 03/25/2002 Complaint for deteriorated landscape, inoperable vehicle, and junk and debris in the carport. Complaint took over three months to gain compliance, and Shawn Daffara was the Inspector.

CE024311 10/25/2002 thru 07/09/2003 Complaint for deteriorated landscape, inoperable and unregistered vehicles, and junk litter and debris through out the property. Complaint took over nine months to gain compliance, and Shawn Daffara was the Inspector.

CE033819 10/01/2003 thru 07/08/2004 Complaint for inoperable and unregistered vehicle, deteriorated landscape, and excessive trash, litter, and debris through out the property. Complaint took nine months to gain compliance. Dave Christ the Senior Code Inspector at the time was Inspector for the complaint.

CE042847 08/05/04 thru 05/25/05 Complaint for deteriorated landscape, inoperable and unregistered vehicle, and junk, litter and debris through out the property. Closed after the abatement was authorized and property owner brought property into compliance prior to the appeal hearing with the BOA. Complaint took over nine months, and multiple Hearing Officer hearings to gain compliance.

CE054963     10/24/05 thru 01/24/07     Complaint for excessive amounts of trash, litter, and debris in the front and back yards of the property, and for a deteriorated roof. I received multiple complaints and correspondence from neighbors for the deteriorated conditions at the property. An abatement was requested and authorized, after an appeal hearing from the Board of Adjustment that voted 7-0 to abate the property. The abatement was completed in January, 2006, and in March, 2006, the property was again in violation. A second abatement was requested along with a request for criminal charges. The second abatement was authorized and it was also appealed to the Board of Adjustment. The hearing was continued and the property was eventually brought into compliance prior to the hearing. The abatement was cancelled and the request for criminal charges was rescinded.

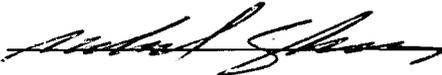
#### **RECOMMENDATIONS:**

Mr. Haring has an extensive history with violating Tempe City Code in regards to allowing excessive amounts of junk, litter, debris, furniture, and various household and mechanical items. There have been six prior complaints dating back to 1999 for the same violations, and each have taken three to nine months to resolve, with some complaints having less than six months separating them. Mr. Haring has been contacted multiple times and has been shown what improvements need to be made by previous Inspectors, the previous Senior Code Inspector, and by Jan Koehn, the Neighborhood Enhancement Administrator. Mr. Haring has been cited numerous times by Inspectors and has been subject to an abatement hearings in 2005 and 2006. The 2005 abatement was authorized, but the property was brought into compliance prior to the appeal hearing with the Board of Adjustment. In December of 2006 another request for the authorization of an abatement was granted by the Hearing Officer and the Board of Adjustment. In January of 2006 the property was abated, and was brought back into compliance. In March of 2006 the property was once again in violation of excessive stored and or discarded items. A second abatement was requested and authorized by the Hearing Officer, and the property was brought into compliance before the Board of Adjustment was able to hear the appeal for the authorized abatement. As of the date of this submittal Mr. Haring has allowed the property to fall back into violation with the same conditions that were present prior to the abatement that was completed in January of 2006.

Mr. Haring was made aware at the time of the last abatement that he needed to maintain the property free of violations, or another abatement would be requested along with possible criminal charges. Without the intervention of another abatement the property will continue to deteriorate, and will be subject to more repeated complaints. I therefore make another 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.

Walter L & Brenda J Haring are the listed legal owners of the residence, as recorded by the Maricopa County Assessor's Office. Mr. Haring has personally identified himself as the owner and as the responsible party. In addition he maintains an account with the City of Tempe for water utilities at the residence.

Respectfully submitted,  
Kirk Erickson  
City of Tempe Code Inspector II

ACTION TAKEN: submit  
NAME:   
DATE: 4-10-07



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

Neighborhood Enhancement Division

## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: April 11, 2006

TO: Walter Haring  
3622 S. Cutler Dr,  
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: Book 129, Map 16, Parcel 105, as recorded with the Maricopa County Assessor.**

**LOCATION: 3622 S. Cutler Dr, 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 May 15<sup>th</sup>, 2006, at 1:30 pm. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal or repair of:

- **ALL DISCARDED HOUSEHOLD ITEMS, TRASH, DEBRIS, APPLIANCES AND NON-WORKING OR NON-REPAIRABLE ITEMS STORED IN THE BACKYARD, CARPORT, DRIVEWAY, FRONT YARD AND SIDE YARDS THAT ARE IN VIOLATION OF TEMPE CITY CODE 21-3.B1.**
- **THE BROWN COLORED HONDA CIVIC THAT APPEARS TO BE INOPERABLE WITH A FLAT TIRE AND IN VIOLATION OF TEMPE CITY CODE 21-3.B3.**
- **REMOVAL OF THE UNREGISTERED WHITE CHEVROLET PICK-UP TRUCK PARKED IN THE BACKYARD THAT IS VISIBLE OVER THE BLOCK WALL, IN VIOLATION OF TEMPE CITY CODE 21-3.B3.**

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 \$2,250.00. 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.



