

Staff Summary Report



Hearing Officer Hearing Date: September 2, 2008

Agenda Number: 9

SUBJECT: This is a public hearing for a request by the by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items at the **HUMMEL RESIDENCE (PL080276/ABT08018)** located at 438 East Pierce Street.

DOCUMENT NAME: 20080916dsac02

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 **HUMMEL RESIDENCE (PL080276/ABT08018)** (Michael & Patricia Hummel, property owners) Complaint CE083906 located at 438 East Pierce Street in the in the R1-6, Single Family Residential District.

PREPARED BY: Alan Como, Planner II (480-350-8439)

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

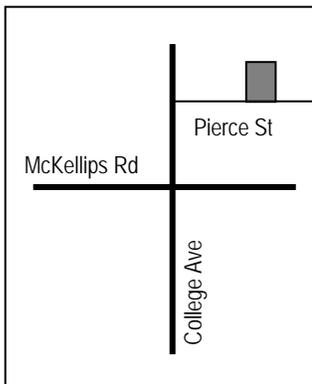
A handwritten signature in black ink, appearing to read 'SEA'.

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 **HUMMEL RESIDENCE (PL080276/ABT08018)** (Michael & Patricia Hummel, property owners) Complaint CE083906 located at 438 East Pierce Street in the R1-6, Single Family Residential District. The residence is located on the north side of Pierce Street, east of College Avenue. 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
 - 3-9. Neighborhood Enhancement Report
 - 10-11. Neighborhood Enhancement Photos

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **HUMMEL RESIDENCE (PL080276/ABT08018)** (Michael & Patricia Hummel, property owners) Complaint CE083906 located at 438 East Pierce 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.

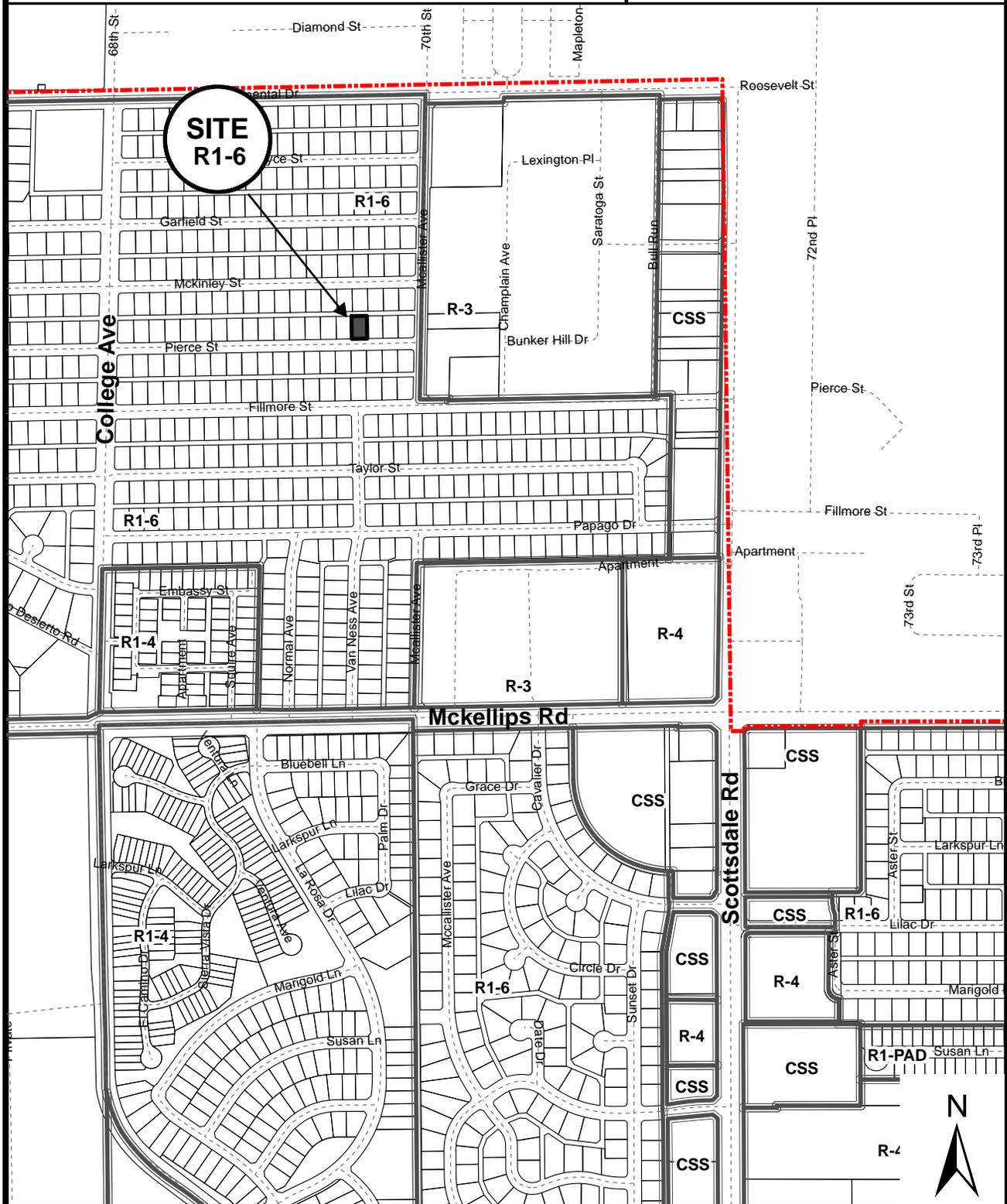
HISTORY & FACTS: See attached memo from the Neighborhood Enhancement Division.

September 2, 2008 At the request of Neighborhood Enhancement the Hearing Officer continued this request for abatement to the September 16, 2008 Hearing Officer hearing.

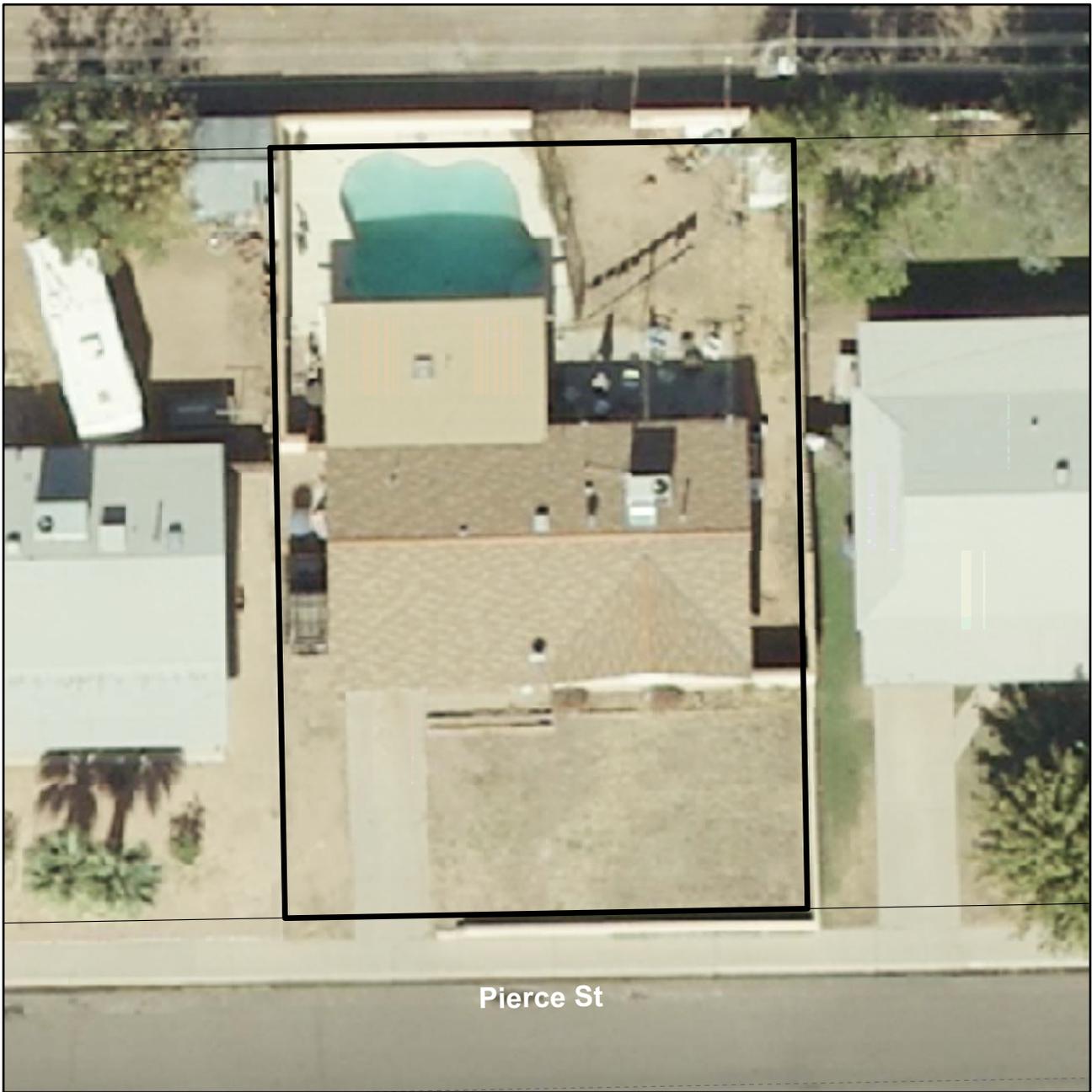
DESCRIPTION: Owner – Michael & Patricia Hummel
Applicant – Andres Lara, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 6,208 s.f. / .14 acres
Building area – 1,616 s.f
Year of construction – 1960

HUMMEL RESIDENCE

PL080276



Location Map



HUMMEL RESIDENCE (PL080276)



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: July 25, 2008

TO: Michael J. Hummel & Patricia E. Hummel
438 E Pierce 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 129, Map 15, Parcel 150, as recorded with the Maricopa County Assessor.

LOCATION: 438 E Pierce 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 September 02, 2008. 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:

**Trash, litter and debris in the back yard area. Over height grass and weeds in the front and back yard area.
(Ref - TCC 21-3-b-1, 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 \$717.50. 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

DATE: 07/25/2008
TO: Jan Koehn, Code Compliance Manager
FROM: Andres Lara
SUBJECT: Michael and Patricia Hummel Property Abatement

LOCATION: 438 E Pierce St, Tempe, AZ 85281

LEGAL: Book 129, Map 15, Parcel 150, as recorded with the Maricopa County Assessor

OWNER: Michael and Patricia Hummel
438 E Pierce St.
Tempe, AZ 85281

FINDINGS:

- 05/14/2008 Based on complaint observed trash, litter, debris, discarded bicycle(s), pieces of cardboard, discarded furniture, wood logs not neatly stacked and bags full of trash and dead over height grass and weeds in the back yard area, a green swimming pool and a deteriorated landscape - dead yellow grass in the front yard area.
- 06/03/2008 Trash, litter, debris, over height grass and weeds and a green pool remained. Final notice to comply mailed.
- 06/13/2008 No improvements made to clean the trash, litter, debris, over height grass and weeds and green dirty pool in the back yard area. 1st citation issued and mailed to Patricia E. Hummel. Also observed no attempt made to improve the dead yellow grass landscape in the front yard area. Final notice to comply mailed.
- 06/30/2008 Failed to appear in court to pay or appeal on the 1st citation issued for trash, litter, debris, over height grass and weeds and green dirty pool in the back yard area.
- 07/25/2008 Notice of abatement posted and mailed to the owner.

HISTORY:

06/03/2002 – 06/28/2002	Lawn parking and over height grass and weeds.
10/22/2003 – 11/13/2003	Lawn parking and deteriorated landscaping.
11/23/2004 – 12/30/2004	Unimproved parking.
02/22/2005 – 03/11/2005	Over height grass and weeds.
11/16/2006 – 12/07/2006	Dead tree and deteriorated fence.
08/24/2007 – 10/24/2007	Deteriorated landscaping and deteriorated paint.
03/11/2008 - 04/11/2008	Over height grass and weeds.

RECOMMENDATIONS:

Two notices and one citation were sent to the property owners Michael and Patricia Hummel concerning the problems at the residence with no response. Michael and Patricia Hummel have 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

CASE #CE083906



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

Mailed on Date: 05/14/08

**Michael & Patricia Hummel
438 E Pierce St
Tempe, AZ 85281**

This notice to comply is to inform you that on **05/14/08**, the property located at **438 E Pierce 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 **06/03/08** 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).

Violation of the Tempe City Code, Chapter 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.

Violation of the Tempe City Code, Chapter 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.

Violation of the Tempe City Code, Chapter 21-3-b-16

Any swimming pool areas that are not enclosed by a fence of at least five (5) feet in height and equipped with a self-closing, self-latching gate(s), or padlocked at all times. Any openings in the fencing shall be of a size to prohibit a spherical object four (4) inches in diameter from passing through or under the fence or gate; or any swimming pool, architectural pool or spa that creates a health hazard, harbors insect infestation or presents a deteriorated appearance.

Please take the following corrective action by: 06/03/08

Required Correction(s):

- 1. Please remove all trash, litter, debris, any discarded bicycle(s), pieces of cardboard, any discarded furniture, wood logs not neatly stacked and bags full of trash in the back yard area.**
- 2. Please remove all dead over height grass or weeds in the back yard area.**
- 3. Please remove all green algae from the swimming pool and bring up to clear and clean condition.**

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 \$150 dollars per violation, 2nd occurrence \$250 dollars per violation, 3rd occurrence \$350 dollars per violation.

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

Section 21-4 (B), Habitual Offender: 1st occurrence \$500 dollars + sum of other fines, 2nd occurrence \$1000 dollars + sum of other fines, 3rd occurrence \$1,500 dollars + sum of other fines.

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 #CE083906



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

Mailed on Date: 06/05/08

**Michael & Patricia Hummel
438 E Pierce St
Tempe, AZ 85281**

This notice to comply is to inform you that on **06/05/08**, the property located at **438 E Pierce 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 **06/13/08** 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).

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Please take the following corrective action by: 06/13/08

Required Correction(s):

- 1. Please remove all trash, litter, debris, any discarded bicycle(s), pieces of cardboard, any discarded furniture, wood logs not neatly stacked and bags full of trash in the back yard area.**
- 2. Please remove all over height grass or weeds in the back yard area.**
- 3. Please remove all green algae from the swimming pool and bring up to clear and clean condition.**

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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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 #CE083906



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

Mailed on Date: 05/14/08

**Michael & Patricia Hummel
438 E Pierce St
Tempe, AZ 85281**

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Please take the following corrective action by: 06/13/08

Required Correction(s):

Please restore the dead yellow grass landscape to living condition in the front yard or install a recognizable form of landscaping in this area(s).

Note: The landscape could consist of bare dirt maintained free of vegetation, live green grass, gravel, desert or a combination of each with defined borders or a recognized landscape of your choosing.

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

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CASE #CE083906



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

Mailed on Date: 06/13/08

**Michael & Patricia Hummel
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Please take the following corrective action by: 06/27/08

Required Correction(s):

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