

Staff Summary Report



Hearing Officer Hearing Date: December 18, 2007

Agenda Item Number: 14

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 **KELCHNER RESIDENCE** located at 39 East McKinley Street.

DOCUMENT NAME: 20071218dssd06

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 **KELCHNER RESIDENCE (PL070489/ABT07031)** (Paul and Henrietta Kelchner, property owners) Complaint CE074609 located at 39 East McKinley 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)

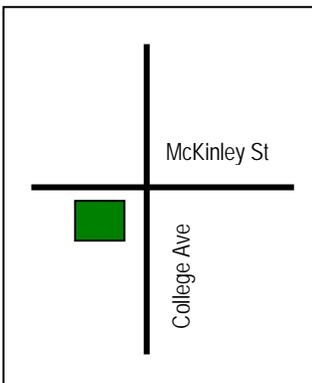
A handwritten signature in black ink, appearing to read 'SEA'.

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 **KELCHNER RESIDENCE (PL070489/ABT07031)** (Paul and Henrietta Kelchner, property owners) Complaint CE074609 located at 39 East McKinley 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)
- 3-13. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **KELCHNER RESIDENCE (PL070489/ABT07031)** (Paul and Henrietta Kelchner, property owners) Complaint CE074609 located at 39 East McKinley 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.

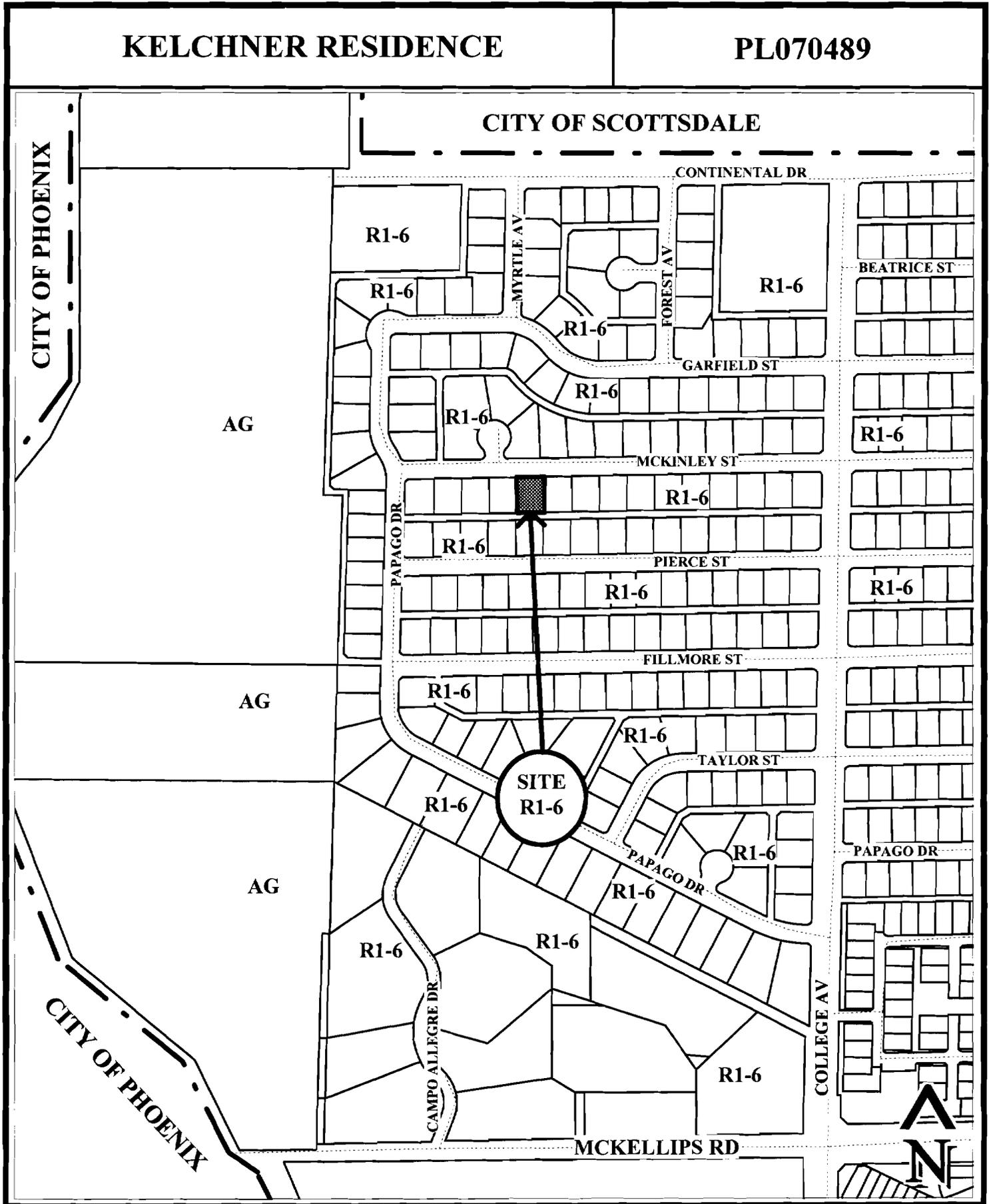
Staff recommends the authorization of abatement of this property.

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

DESCRIPTION: Owner – Paul and Henrietta Kelchner
Applicant – Andres Lara, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 7,068 s.f./16 acres
Building area – 1,710 s.f.
Year of construction – 1960

KELCHNER RESIDENCE

PL070489



Location Map



KELCHNER RESIDENCE (PL070489/ABT07031)

DATE: 11/07/2007
TO: Jan Koehn, Code Compliance Manager
FROM: Andres Lara
SUBJECT: Paul J. and Henrietta G. Kelchner Property Abatement

LOCATION: 39 E McKinley St, Tempe, AZ 85281

LEGAL: Book 129, Map 20, Parcel 074, as recorded with the Maricopa County Assessor

OWNER: Paul J. and Henrietta G. Kelchner
39 E McKinley St.
Tempe, AZ 85281

FINDINGS:

- 08/16/2007 Notice to comply by 08/28/07 mailed to the owner for trash, litter and debris in the carport including three wheeler and discarded air conditioner unit next to the carport; an unregistered blue boat trailer with no license plate parked next to the driveway; over height grass or weeds in the front yard; over height grass or weeds over gravel in the west side yard and dead yellow grass in the east side of the front yard.
- 08/28/2007 Over height grass or weeds in the front yard cut. Observed a dead tree roof height next to the front porch. Second notice to comply mailed for original violations and a dead tree.
- 09/14/2007 Observed the same violations and no improvements made.
- 09/18/2007 Mailed final notice to comply for all violations.
- 10/04/2007 No improvements or changes made. First citation issued for trash, litter and debris; unregistered boat trailer and deteriorated landscaping and a dead tree.
- 10/22/2007 Owner failed to appear in court, or to pay fine.
- 10/22/2007 Observed blue boat trailer with no license plate parked next to the carport and a dead tree next to the front porch. The remainder of the violations have been corrected.
- 11/07/2007 Notice of abatement posted and mailed to the owner.

HISTORY:

07/24/1998 – 10/22/1998	Trash and debris in the carport.
09/21/1999 – 10/28/1999	Lawn parking and unregistered vehicle.
08/29/2002 – 09/19/2002	Unregistered vehicle.
02/13/2004 – 04/07/2004	Excessive persons.
02/04/2005 – 05/23/2005	Weeds in gravel.
05/17/2006 – 09/21/2006	Deteriorated landscape.
04/16/2007 - 06/06/2007	Over height grass or weeds.

RECOMMENDATIONS:

Three notices and one citation were sent to the property owners Paul J. and Henrietta G. Kelchner concerning the problems at the residence with no response. Paul J. and Henrietta G. Kelchner have failed to correct the current violations and between 05/17/06 to 09/21/06 this property was issued four citations which have not been paid to date. 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



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 07, 2007

TO: Paul J. & Henrietta G. Kelchner
39 E McKinley 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 20, Parcel 074, as recorded with the Maricopa County Assessor.

LOCATION: 39 E McKinley 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:

An unregistered blue boat trailer with no license plate parked next to the driveway and a dead tree roof height next to the front porch of the home. (Ref - TCC 21-3-b-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 \$300.00. 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



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

Mailed on Date: 08/16/07

**Paul & Henrietta Kelchner
39 E McKinley St
Tempe, AZ 85281**

This notice to comply is to inform you that on **08/14/07**, the property located at **39 E McKinley 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 **08/28/07** 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).

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-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.

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.

Please take the following corrective action by: 08/28/07

Required Correction(s):

Trash, litter and debris

Please remove all trash, litter and debris in the carport & next to the carport including three wheeler.

Inoperable or unregistered vehicle(s)

Please obtain valid registration (tags) for the blue boat trailer no license plate parked next to the driveway or move vehicle(s) to an enclosed area.

Over height grass or weeds

Please remove all over height grass or weeds in the front yard and all over height grass or weeds over gravel on the west side yard.

Deteriorated landscaping

Please restore the dead yellow grass landscape to live green grass condition in the east side of the front yard.

**Jennifer Craft
39 E McKinley St
Tempe, AZ 85281**

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 #CE074609



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

Mailed on Date: 08/28/07

**Paul & Henrietta Kelchner
39 E McKinley St
Tempe, AZ 85281**

This notice to comply is to inform you that on **08/28/07**, the property located at **39 E McKinley 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 **09/14/07** 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).

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-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.

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.

Please take the following corrective action by: 09/14/07

Required Correction(s):

Trash, litter and debris

Please remove all trash, litter and debris in the carport and next to the carport including three wheeler.

Inoperable or unregistered vehicle(s)

Please obtain valid registration (tags) for the blue boat trailer no license plate parked next to the driveway or move vehicle(s) to an enclosed area.

Over height grass or weeds

Please remove all over height grass or weeds over gravel in the west side yard.

Dead trees or limb

Please remove or cut down to the stump the dead tree branches roof height next to the front porch.

Deteriorated landscaping

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

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.

**Jennifer Craft
39 E McKinley St
Tempe, AZ 85281**

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.

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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 #CE074609



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

Mailed on Date: 09/18/07

**Paul & Henrietta Kelchner
39 E McKinley St
Tempe, AZ 85281**

This notice to comply is to inform you that on **09/14/07**, the property located at **39 E McKinley 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 **10/02/07** 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).

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- 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;
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Please take the following corrective action by: 10/02/07

Required Correction(s):

Trash, litter and debris

Please remove all trash, litter and debris in the carport and next to the carport including all vehicle parts, vehicle tire, discarded air conditioning unit and three wheeler motorcycle.

Inoperable or unregistered vehicle(s)

Please obtain valid registration (tags) for the blue boat trailer with no license plate parked next to the driveway or move boat trailer to an enclosed area.

Dead trees or limb

Please remove or cut down to the stump the dead tree roof height located next to the front porch.

Deteriorated landscaping

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

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.

**Jennifer Craft
39 E McKinley St
Tempe, AZ 85281**

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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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

#71084

Estimate

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

Date 10/26/2007
 Order # _____
 Customer # _____
 Our Order # _____

Qty	Description
	Work done at: 39 E. McKinley Street
	Scope of work:
1	Haul away 1 unregistered baot in front yard
2	Cut down at base 1 dead tree in front yard
Price includes all labor, material, and dumo fees.	
Contract # T05-102-01	

Unit Price	Total
\$150.00	\$150.00
\$150.00	\$150.00
Total: \$300.00	

Disclaimer:

Prices may vary due to work completed by homeowner, and the time lapse between this estimate and the abatement date. This estimate is 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.

