

CITY OF TEMPE HEARING OFFICER

Meeting Date: 05/16/2023

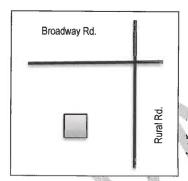
Agenda Item: 3

ACTION: Request approval to abate public nuisance items at the Riegel Property located 2127 S. Ventura Drive. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$4844 for abatement request: landscape cleanup, front & side yards; remove junk and debris from front and side yards.

RECOMMENDATION: Staff – Approval of 180-day open abatement

BACKGROUND INFORMATION: City of Tempe – Code Compliance Section requests approval to abate items in violation of the Tempe City Code at the RIEGEL PROPERTY. The details of this case represent several months of correspondence for compliance with the property owner. Staff requests the approval of abatement of the following nuisance items under Complaint CE223161: landscape cleanup, front & side yards; remove junk and debris from front and side yards.



Property Owner Applicant Zoning District: Code Compliance Inspector: Marshall Thomas Riegel
City of Tempe – Code Compliance
R1-6 Single Family Residential
Hector Heredia

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Code Administrator (480-858-2190)

Department Director: Jeffrey Tamulevich, Department Director

Legal review by: N/A

Prepared by: Barbara Simons, Code Inspector Reviewed by: Drew Yocom, Code Administrator

COMMENTS:

Code Compliance is requesting approval to abate the Riegel Property located at 2127 S. Ventura Drive, in the R1-6 Single Family Residential district. This case was initiated 05/24/2022, after which Code Compliance has attempted to obtain compliance through correspondence with the property owner regarding violations of the Tempe City Code.

Without the intervention of abatement, the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve a 180-day open abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

HISTORY & FACTS:

The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

Planning Application Submittal Form

Part 1 of 2

City of Tempe
Community Development Department
31 East 5th Street, Garden Level, Tempe, Arizona 85281
(480) 350-4311 Fax (480) 350-8677
Planning Fax (480) 350-8872
http://www.tempe.gov/planning



All applications must be accompanied by the required plans, submittal materials, and correct fee(s)

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	CONTACT NAME	Hector Heredia Co	de Ins	pector	СПҮ	TEMPE	STATE	AZ	ZIP	85281	
	EMAII	hector_heredia@	tempe	e.gov	PHONE 1	480.350.5462	PHONE 2				
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DATE:

04.04.2023

TO:

Julie Scofield, Senior Code Inspector

FROM:

Hector Heredia, Code Inspector

SUBJECT:

CE223161: MARSHALL THOMAS RIEGEL PROPERTY ABATEMENT FINDINGS

LOCATION: 2127 S VENTURA DR TEMPE, AZ 85282

PARCEL:

133.25.090

OWNER:

MARSHALL THOMAS RIEGEL

2724 E GEMINI ST GILBERT. AZ 85234

FINDINGS:

05.24.2022: Code Compliance received anonymous complaints regarding bad putrid odors, including junk / debris, a deteriorated landscape with over height on the front yard areas. At the time of inspection, I also noticed that the property had a deteriorated rental landscape which was added to the violations and notice. These concerns were verified, and a first notice was mailed to the property owner and tenants.

06.08.2022: At the second inspection no corrective actions had taken place and a final notice was mailed to the property owner and tenants.

06.23.2022: An extension was requested by the tenants who also disclosed that the property owner was having some personal issues and some time was needed to recover.

07.12.2022: Based on progress and ongoing issues another extension was granted.

08.22.2022: A first citation was issued after the property was not brought into compliance. Several extensions were granted but could not bring the property into compliance. This citation then defaulted after a 14-day appeal period, which was not contested.

09.27.2022: A second citation was issued after the property was not brought into compliance. Steeper penalties were also applied. This citation then defaulted after a 14day appeal period, which was not contested.

- 10.26.2022: Management spoke with the property owner and provided a three-week extension based on local irrigation scheduling for the area.
- 11.17.2022: Management tried to reach the property owner who stated more time was needed and a short extension was granted.
- 12.27.2022: After multiple failed attempts to reach the property owner or contact initiated by a responsible party. The third citation was issued after the property was not brought into compliance. Steeper penalties were also applied. This citation then defaulted after a 14-day appeal period, which was not contested.
- 03.27.2023: Anonymous complaints continue to be received about the deteriorated state of the property.
- 03.28.2023: After multiple failed attempts to reach the property owner and citations the abatement packet was turned in for the May 16th, 2023, Hearing Officer. Alongside the Abatement Packet, a Criminal Charge was also filled, for a Deteriorated Rental landscape, which is not abatable by City Code.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property located at 2127 S VENTURA DR TEMPE; AZ 85282 due to property owner's failure to bring property into compliance with Tempe City Codes **CC 21-3.b.1** and **CC 21-3.b.8**. Marshall Thomas Riegel has been given ample time to come into compliance and maintain the property. The property owner has been issued a civil citation and has failed to appear to court. There has been no indication that the property owner will bring the property into compliance. The property represents a health hazard and an eyesore to the community.

Without the intervention of abatement, the property will continue to deteriorate. I therefore make a request to the City of Tempe Community Development Hearing Officer for authorization to abate this public nuisance in accordance with section 21-53 of the Tempe City Code and authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Respectfully submitted,

Hector Heredia Code Inspector

ACTION TAKEN:	Submitted)
NAME	- Autu Mofield
DATE:	4/4/23



DATE: 04.04.2023 CASE: CE223161

MARSHALL THOMAS RIEGEL 2724 E GEMINI ST

GILBERT, AZ 85234

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

LOCATION: 2127 S VENTURA DR TEMPE, AZ 85281

PARCEL: 133.25.090

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers on 05.16.2023. 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:

Violation of City of Tempe Codes

CC 21-3.b.1

Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof 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, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the County Health Officer or this Code or any other ordinance of the City

CC 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.

If the violations have not been corrected within thirty days, our office will proceed with the abatement process. As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct any violation as described below:

- 1. REMOVE ALL JUNK / DEBRIS FROM THE FRONT AND FRONT SIDE YARD AREAS.
- 2. REMOVE GRASS / WEEDS FROM THE ENTIRE FRONT YARD LANDSCAPE.

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 \$4,844.00. 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) 350-4311.

Code Inspector: Hector Heredia Phone Number: 480.350.5462

E-mail: hector_heredia@tempe.gov



March 29, 2023

City of Tempe Attn: Hector Heredia Code Inspector

RE: Clean-Up at 2127 S. Ventura Dr.

Thank you for giving Artistic Land Management, Inc the opportunity to serve your landscaping needs. Below is our price to provide all labor, equipment, landfill fees, and supervision to perform the work listed below at 2127 S. Ventura Dr, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

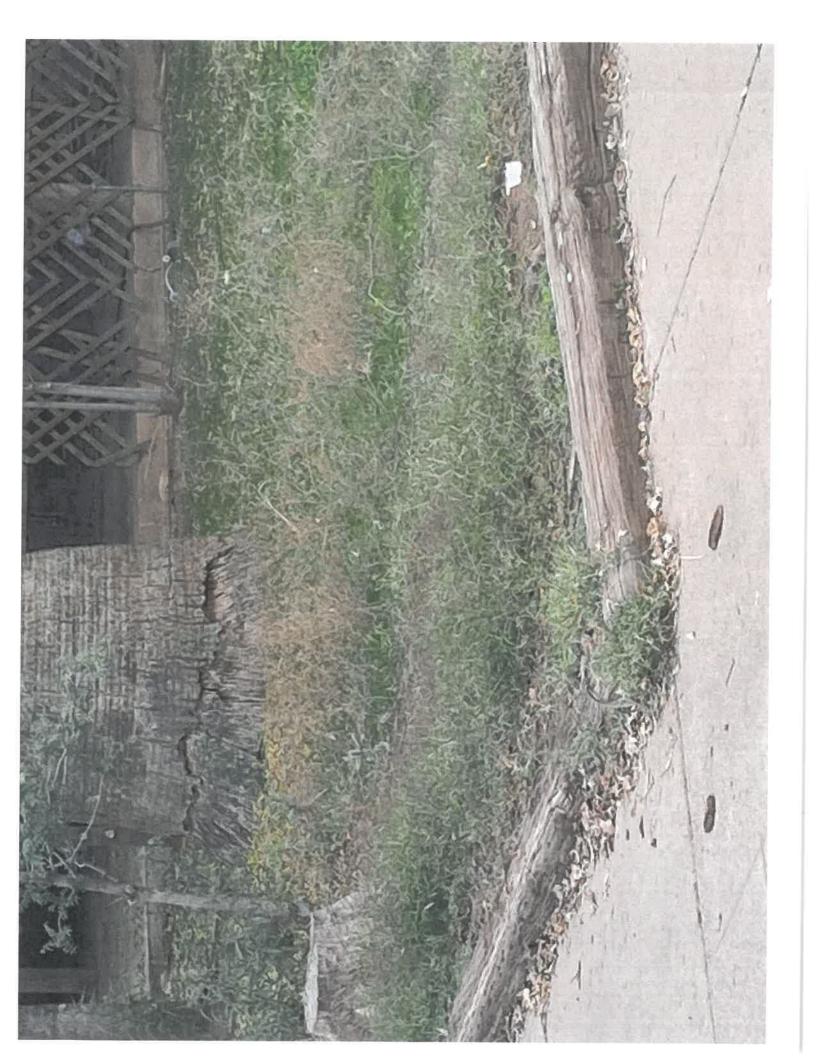
Scope of Work

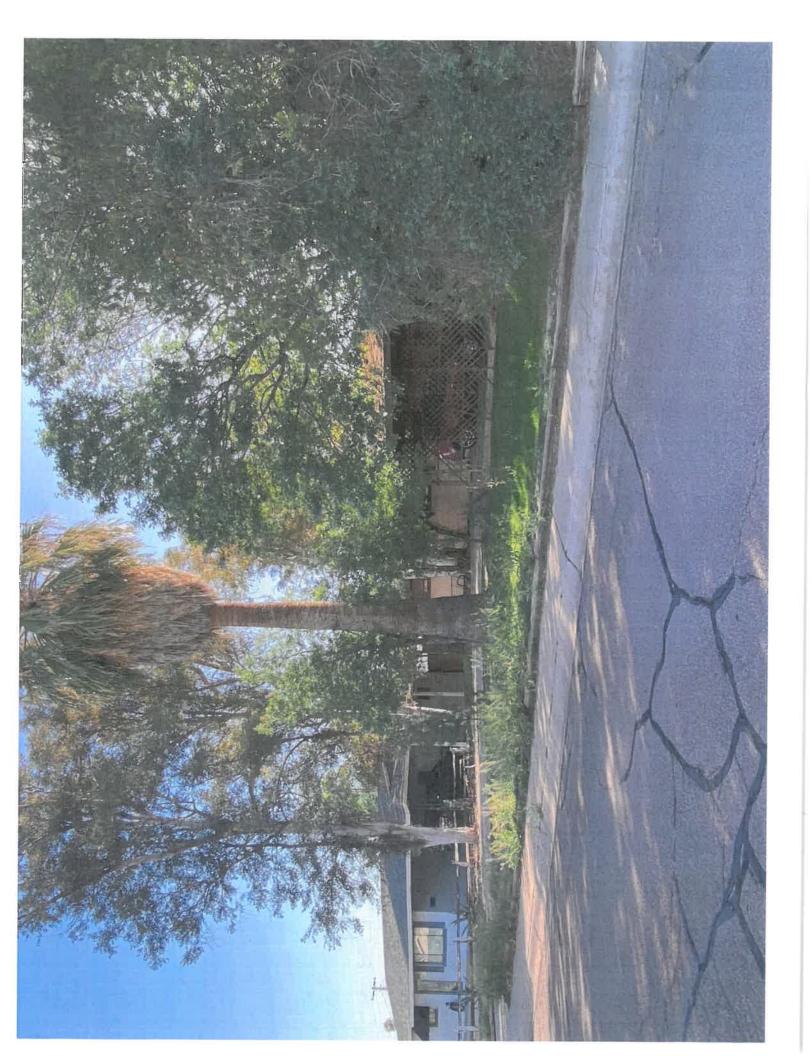
- Clean-up deteriorated and overgrown landscape in the front, side, and right-of-way areas
- Remove junk and debris in the front and side yard areas
- Trim overgrown palm tree in the front yard
- Cut down large tree stump in the front yard to ground level
- Police presence on-site for duration of visit

Total: \$4,844.00

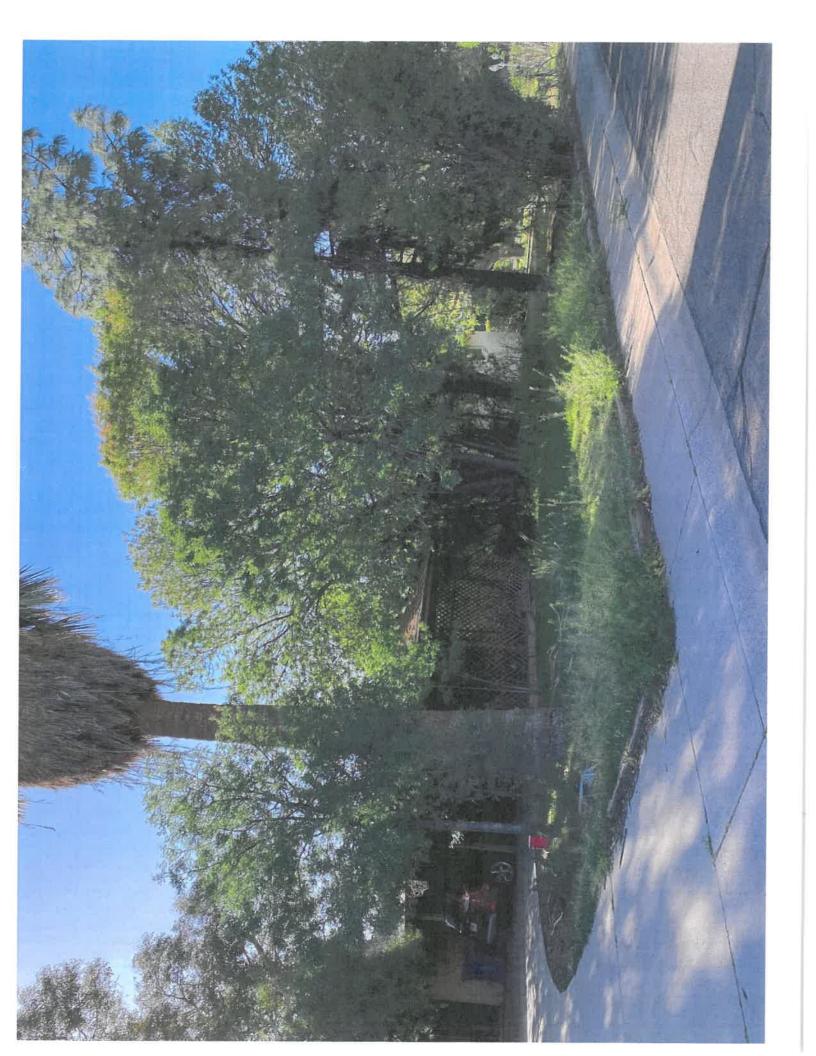
Respectfully,

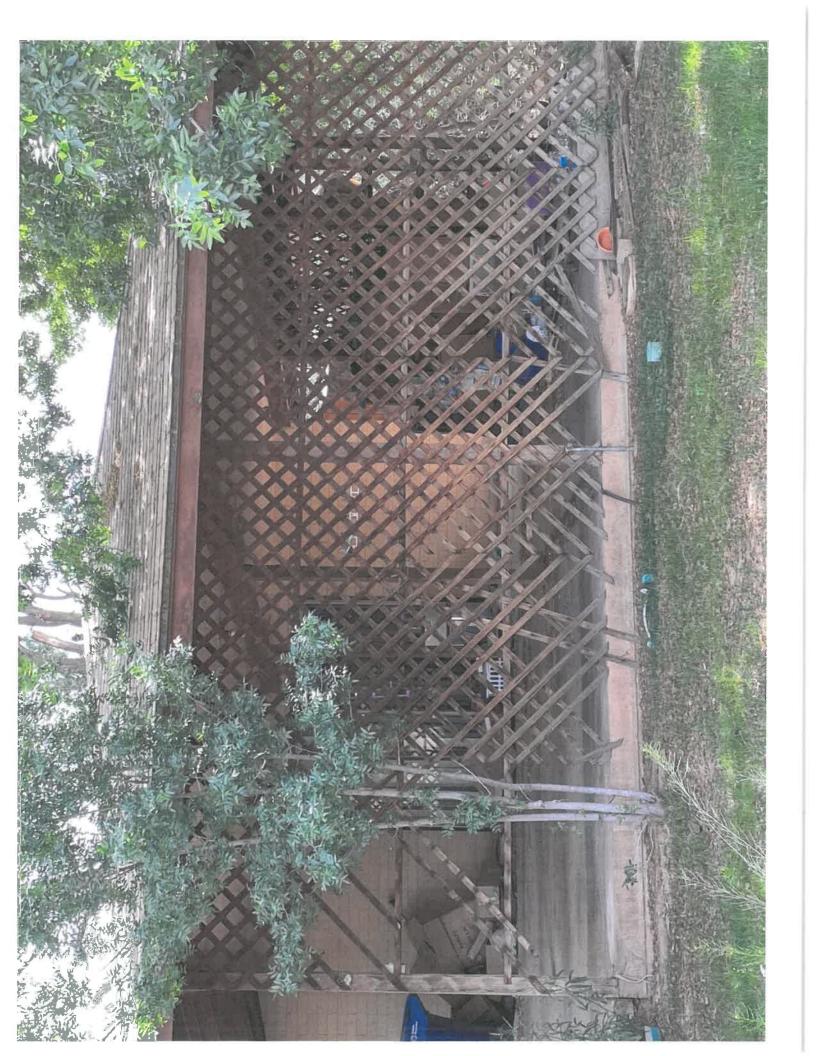
Jose Hernandez

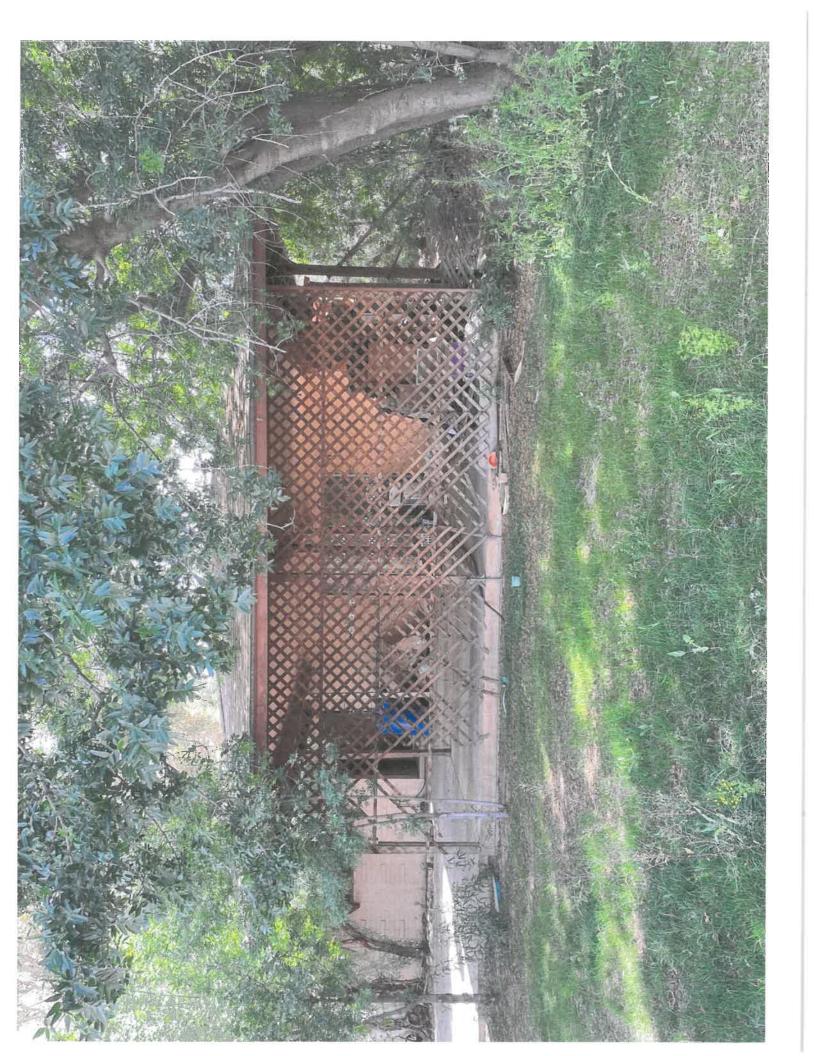


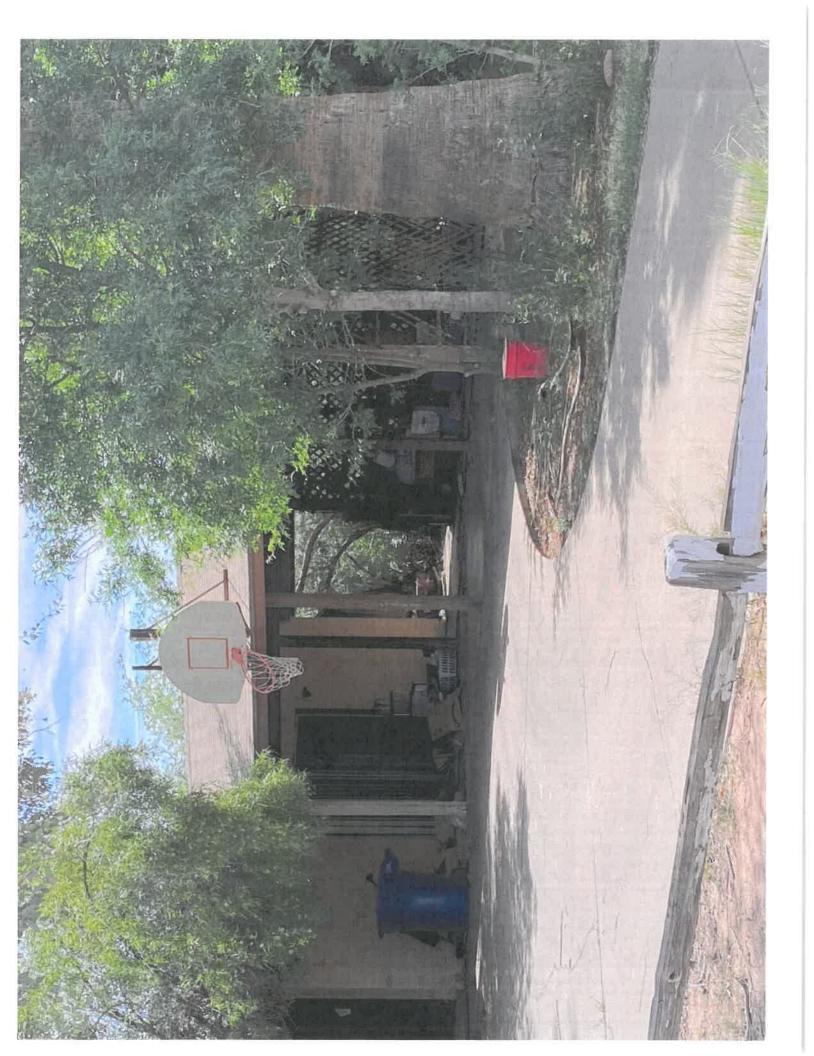
















COMMUNITY DEVELOPMENT DEPARTMENT CODE COMPLIANCE CORRECTION NOTICE

05/24/2022

RIEGEL MARSHALL THOMAS 2724 E GEMINI ST GILBERT, AZ 85234

Case #: CE223161

Site Address: 2127 S VENTURA DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 05/24/2022 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Section	Violation
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building
CC 21-3.b.8	Landscaping that is substantially dead, damaged or characterized by uncontrolled growth, or presents a deteriorated appearance; or any dead trees, bushes, shrubs or portions thereof, including stumps
CC 21-38.h	Every rental housing unit shall have landscaping in all yard areas which are visible from a public street, alley, or sidewalk or a neighboring property

PLEASE TAKE TH	HE FOLLOWING CORRECTIVE ACTION	SITE REINSP ON OR AFTER
CC 21-3.b.1	Please remove all the trash, litter, debris, and stored items from your properties front yard including underneath carport / driveway as needed. All storage items must be kept in an enclosed unit classified as a building with four walls and a door / window. An un-enclosed area cannot be maintained as outdoor storage. All debris must be discarded appropriately at city dump sites or designated bins to help diminish a deteriorated appearance. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such issues.	6/7/2022
CC 21-3.b.8	Please water your front yard vegetation to bring it back to a living state, or please trim and maintain vegetation so it does not appear to be in a state of uncontrolled growth, dry or dead. This also includes eliminating overgrown grass and weeds, dead bushes and trees. Make sure to address and maintain city right of way areas that you are responsible for. Discard all landscaping debris appropriately and in designated bins or city dump sites. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such issues.	6/7/2022
CC 21-38.h	All rental properties must have a unified landscape. Please use an approved landscaping material/s to unify the deteriorated areas. Properly restore or unify your front yard landscaping free of all deterioration. All over height must be eliminated. Please take all the precautionary measures necessary to re-seed and maintain a grassed landscape or install gravel to your specified design as needed. If a type of approved gravel is chosen it must remain free of all growth always. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such	6/7/2022

issues. If clarification is necessary, please familiarize yourself with additional indepth information regarding rental property landscaping provided under the conditions stated in article 21-38.h of the Rental Housing Codes section of city nuisance's codes. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such issues.

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Hector Heredia Jr Code Inspector Direct: 480-350-5462

Code Compliance: 480-350-4311 Email:Hector_Heredia@tempe.gov

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$82.00 pursuant to City Code Section 21-51, subsection (b). **Civil and Criminal Penalties**

City Code: Section 21-3, subsections (b) 1-8, 17-19 and 21; Sections 21-4; 21-13; Section 21-24; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation |Sections 21-31; 21-32; 21-33; 21-35; 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Section 21-3, subsections (b) 9-16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 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 the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



COMMUNITY DEVELOPMENT DEPARTMENT CODE COMPLIANCE FINAL CORRECTION NOTICE

06/09/2022

RIEGEL MARSHALL THOMAS 2724 E GEMINI ST GILBERT, AZ 85234

Case #: CE223161

Site Address: 2127 S VENTURA DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 06/09/2022 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Section	Violation
CC 21-3.b.8	Landscaping that is substantially dead, damaged or characterized by uncontrolled growth, or presents a deteriorated appearance; or any dead trees, bushes, shrubs or portions thereof, including stumps
CC 21-38.h	Every rental housing unit shall have landscaping in all yard areas which are visible from a public street, alley, or sidewalk or a neighboring property

PLEASE TAKE TH	HE FOLLOWING CORRECTIVE ACTION	SITE REINSP ON OR AFTER
CC 21-3.b.8	Please water your front yard vegetation to bring it back to a living state, or please trim and maintain vegetation so it does not appear to be in a state of uncontrolled growth, dry or dead. This also includes eliminating overgrown grass and weeds, dead bushes and trees. Make sure to address and maintain city right of way areas that you are responsible for. Discard all landscaping debris appropriately and in designated bins or city dump sites. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such issues.	6/23/2022
CC 21-38.h	All rental properties must have a unified landscape. Please use an approved landscaping material/s to unify the deteriorated areas. Properly restore or unify your front yard landscaping free of all deterioration. All over height must be eliminated. Please take all the precautionary measures necessary to re-seed and maintain a grassed landscape or install gravel to your specified design as needed. If a type of approved gravel is chosen it must remain free of all growth always. Lastly, make sure that your property is being maintained on a regular basis, if not regularly present please make proper arrangements to address such issues. If clarification is necessary, please familiarize yourself with additional indepth information regarding rental property landscaping provided under the conditions stated in article 21-38.h of the Rental Housing Codes section of city nuisance's codes.	6/23/2022

This is the final attempt to reach you regarding the above noted. These issues must be addressed. If your property is not brought into compliance before or on the due date a citation will be issued. There will be no more notices sent to your property due to negligence of the pending violations in a twelve-month period. As a final reminder, if your yard is out of compliance again in this period for the same violation/s, citations will be issued without further warning or notice. Please contact me by phone at your earliest convenience to discuss the details or for clarification.

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Hector Heredia Jr Code Inspector

Direct: 480-350-5462

Code Compliance: 480-350-4311 Email:Hector_Heredia@tempe.gov

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$82.00 pursuant to City Code Section 21-51, subsection (b). Civil and Criminal Penalties

City Code: Section 21-3, subsections (b) 1-8, 17-19 and 21; Sections 21-4; 21-13; Section 21-24; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation |Sections 21-31; 21-32; 21-33; 21-35; 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Section 21-3, subsections (b) 9-16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 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 the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.

Arizona Traffic Ticket and Complaint

City of Tempe Maricopa County, State of Arizona



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COMPLAINT

If you were charged with a civil ordinance violation and you fail to appear as directed in this complaint, a default judgement will be entered, and a monetary penalty will be imposed.



Arizona Traffic Ticket and Complaint

City of Tempe Maricopa County, State of Arizona



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COMPLAINT



Arizona Traffic Ticket and Complaint

City of Tempe Maricopa County State of Arizona



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If you were charged with a civil ordinance violation and you fail to appear as directed in this complaint, a default judgement will be entered, and a monetary penalty will be imposed.

