

CITY OF TEMPE HEARING OFFICER

Meeting Date: 6/18/2019

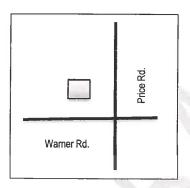
Agenda Item: 3

ACTION: Request approval to abate public nuisance items at the Sivak Property located at 1969 E. Palomino Drive. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$1145.00 for abatement request, remove unregistered vehicles, cut over-height grass in front, side and back yards, restore pool water to clear state, and remove the bee hive on the front of the house.

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 SIVAK 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 CE192215: remove unregistered vehicles, cut over-height grass in front, side and back yards, restore pool water to clear state, and remove bee hive on the front of the house.



Property Owner

Robert J. Sivak

Applicant Zoning District: City of Tempe - Code Compliance R1-7, Single Family Residential

Code Compliance Inspector:

Jack Scofield, Code Inspector

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Planning & Research Analyst (480-858-2190)

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Barbara Simons, Code Inspector

Reviewed by: Drew Yocom, Planning & Research Analyst

COMMENTS:

Code Compliance is requesting approval to abate the Sivak Property located at 1969 E. Palomino Drive, in the R1-7, Single Family Residential district. This case was initiated 03/27/2019, 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 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 I	be acc	ompanied by	the requir	ed plans, submittal materia	ls, and correct fee(s)	lei	npe
				PROJECT	INFORMAT	ION - REQUIRED				
PROJECT NAME SIVAK PROPERTY ABATE			EMENT				EXISTING ZONING			
PROJECT ADDRESS 1969 E PALOMINO DR TE				AZ 85284	SUITE(S)					
PROJECT DESCRIPTION ABATEMENT OF CE1922: JUNE 18, 2019			15			PARCEL No(s)	308-01-213			
		PROPERTY OWNER	INFO	RMATION – F	REQUIRED	(EXCEPT PRELIMINARY SI	TE PLAN REVIEW)			
	BUSINESS NAME				ADDRESS		·			
CONTACT NAME					CITY		STATE	STATE ZIP		
EMAIL					PHONE 1		PHONE 2			
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or attach written statement authorizing the appli				application(s)						
CC	MPANY / FIRM NAME				INFORM A ADDRESS	TION – REQUIRED				
		CITY OF TEMPE/CODE ENFORCEMENT				21 E 6TH ST STE 208				
	CONTACT NAME	JACK SCOFIELD/CODE IN	ISPEC	TOR	CITY	ТЕМРЕ	STATE	AZ	ZIP	85281
	EMAIL	jack_scofield@tempe.gov			PHONE 1	(480) 350-8967	PHONE 2			
I he	ereby attest that the	is application is accurate a eturned to me without revi	nd the	submitted o	locuments	are complete. I acknowledg	e that if the applica	ation is d	deemed	to be
inc	ompiete it will be r			DE resudmit IT SIGNATURE		y missing information.		DATE _	40/004	
		BUCINEC	C INFO	DMATION				5/	5/16/2019	
	BUSINESS NAME	ROSINES	S INFO	DRMATION -	ADDRESS	FOR USE PERMITS & SIG	N DPRs			·
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	CONTACT NAME						STATE		ZIP	
TYPE OF BUSINESS					PHONE		EMAIL			
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PL TRACKING #			CE / CM TRACKING #			(-1,)				
SPR TRACKING # (if 2nd or 3nd submittal,						TOTAL APPLIC	TOTAL APPLICATION FEES			
use planning resubmittal form)							RECEIVED BY INTAKE STAFF (INITIALS)			

DATE:

May 16, 2019

TO:

Jeff Tamulevich, Code Compliance Administrator

FROM:

Jack Scofield, Code Inspector

SUBJECT:

CE192215, Clardy Property Abatement

LOCATION: 1969 E PALOMINO DR TEMPE. AZ 85284

LEGAL:

ESTATE LA COLINA UNIT 4 MCR 269-33

PARCEL:

308-01-213

OWNER:

SIVAK ROBERT J

1969 E PALOMINO DR TEMPE, AZ 85284-8026

FINDINGS:

3/26/2019 The Code Compliance Division received a complaint for a bee hive in the roof of the property.

3/27/2019 Inspected property and found a large amount of bees entering the roof around the Northeast 2nd floor window. Contacted property preservation company representing foreclosing bank and they stated they would have the hive treated. Notice to comply mailed posted to front door, mailed to bank, and emailed to property preservation company.

4/10/2019 Received email from property preservation company stating that they are obtaining bids to submit to bank for their approval. 2 week extension granted.

4/25/2019 No progress. Discovered additional violations. Deteriorated landscape in the front and rear yard, deteriorated pool with stagnant water, and a unregistered vehicle in the driveway. Final notice to comply mailed posted to front door, mailed to bank, and emailed to property preservation company.

5/16/2019 Posted notice of intent to abate to property, mailed to bank, and emailed to property preservation company.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property at 1969 E Palomino Dr due to bank's failure to bring property into compliance with Tempe City Code 21-3.B.3, 21-3.B.8, 21-3.B.16, and 21-3.B.20. Mr. Sivak is deceased and the bank has been given ample time to come into compliance and maintain the property. There has been no indication that the property owner next of kin and bank will bring the property into compliance. The property represents a health hazard and an evesore 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,

Jack Scofield Code Inspector II

ACTION TAKEN:

NAME

DATE:

HAMANN ENTERPRISES, LLC

2925 N 19TH AVE UNIT 97 PHOENIX, AZ 85015 (602) 575-4455

hamannenterprises@yahoo.com

THE FOLLOWING DOCUMENT IS FOR:

NAME:

JACK SCOFEILD

FIRM: CITY OF TEMPE

DATE: 5/15/19

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE UNDER CONTRACT # T18-011-03

ADDRESS: 1969 E PALAMINO DR

	1 LANDSCAPE FRONT AND BACK YARDS	\$560.00			
	2 ESTAMATED DUMP FEES	\$50.00			
	3 TOWING OF DISABLED VEHICLE	\$135.00			
	4 BEE HIVE REMOVAL	\$400.00			
×	5	\$0.00			
	6	\$0.00			
TOTAL COST OF JOB					

THANK YOU FOR YOUR BUSINESS

BOB HAMANN

CASE # CE192215



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 5/16/19

SIVAK ROBERT J 1969 E PALOMINO DR TEMPE, AZ 85284-8026

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

Legal: Location: ESTATE LA COLINA UNIT 4 MCR 269-33 1969 E PALOMINO DR TEMPE, AZ 85284

Parcel:

308-01-213

This office will submit this complaint to the Community Development Abatement Hearing Officer to be placed on the Hearing Officer agenda of **06/18/2019**. 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:

- REMOVE UNREGISTERED VEHICLE IN THE DRIVEWAY OR REGISTER VEHICLE WITH AZ MVD.
- 2. CUT OVER HEIGHT GRASS AND WEEDS IN THE FRONT, SIDE, AND REAR YARDS.
- 3. RESTORE POOL WATER TO A CLEAN AND CLEAR STATE. ALL ALGAE, DIRT, AND DEBRIS MUST BE REMOVED FROM POOL.
- 4. REMOVE BEE HIVE AND BEE INFESTATION FROM THE AROUND THE 2 FLOOR WINDOW ON THE NORTHEAST CORNER ON THE FRONT OF THE RESIDENCE.

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 \$1145.00. 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) 350-8967.

Code Inspector: Jack Scofield
Phone Number: (480)350-8967
E-mail: jack_scofield@tempe.gov

CASE # CE192215



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 5/16/19

New Residential Mortgage Loan Trust 2018-3 C/O NewRez LLC, f/k/a New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing 55 Beattie Place, Suite 500 Greenville, SC 29601

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

Legal:

ESTATE LA COLINA UNIT 4 MCR 269-33

Location:

1969 E PALOMINO DR TEMPE, AZ 85284

Parcel:

308-01-213

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COMMUNITY DEVELOPMENT DEPARTMENT CODE COMPLIANCE CORRECTION NOTICE

3/27/19

SIVAK ROBERT J 1969 E PALOMINO DR TEMPE, AZ 85284-8026

Case#: CE192215

Site Address: 1969 E PALOMINO DR TEMPE, AZ 85283 4

SITE REINSPECTION ON OR AFTER: 04/10/2019

This is a notice to inform you that this site was inspected on 3/27/19 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.

VIOLATION SECTION:

Violation of City of Tempe Code 21-3-B-20

To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

1. REMOVE BEE HIVE AND BEE INFESTATION FROM THE AROUND THE 2 FLOOR WINDOW ON THE NORTHEAST CORNER ON THE FRONT OF THE RESIDENCE.

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

Jack Scofield Code Inspector II E-Mail

Direct: 480-350-8967

Code Compliance: 480-350-8372 jack_scofield@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 \$75.00 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 | Sections 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 CORRECTION NOTICE

3/27/19

New Residential Mortgage Loan Trust 2018-3 C/O NewRez LLC, f/k/a New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing 55 Beattie Place, Suite 500 Greenville, SC 29601

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COMMUNITY DEVELOPMENT DEPARTMENT CODE COMPLIANCE FINAL CORRECTION NOTICE

4/25/19

SIVAK ROBERT J 1969 E PALOMINO DR TEMPE, AZ 85284-8026

Case#: CE192215

Site Address: 1969 E PALOMINO DR TEMPE, AZ 85284

SITE REINSPECTION ON OR AFTER: 05/09/2019

This is a notice to inform you that this site was inspected on 4/25/19 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.

VIOLATION SECTION:

Violation of City of Tempe Code 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:

- 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 and Development Code; 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.

Violation of City of Tempe Code 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 City of Tempe Code 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 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.

Violation of City of Tempe Code 21-3-B-20

To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

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- 4. REMOVE BEE HIVE AND BEE INFESTATION FROM THE AROUND THE 2 FLOOR WINDOW ON THE NORTHEAST CORNER ON THE FRONT OF THE RESIDENCE.

CORRECTIVE ACTION MUST BE COMPLETED OR A \$1200.00 CITATION WILL BE ISSUED AND/OR ABATEMENT PROCEEDINGS WILL BE INITIATED.

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

Jack Scofield Code Inspector II E-Mail Direct: 480-350-8967

Code Compliance: 480-350-8372 jack_scofield@tempe.gov

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4/25/19

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CORRECTIVE ACTION MUST BE COMPLETED OR A \$1200.00 CITATION WILL BE ISSUED AND/OR ABATEMENT PROCEEDINGS WILL BE INITIATED.

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

Jack Scofield Code Inspector II E-Mail Direct: 480-350-8967 Code Compliance: 480-350-8372 jack scofield@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 \$75.00 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.











Query Response (Order 47734230)

Plate Number CBJ0808

VIN

Name

ARIZONA MOTOR VEHICLE RECORD AS OF 05/16/2019

PLATE CBJ0808 - 001

VIN YV1FA8750K1198478

MAKE VOLV **GVW** 000000

 TAB CBJ0808
 CAT A
 VIN YV1FA8750K115

 YEAR 1989
 VST SW
 FLP 025605

 FUEL G
 MFR JUL 1989
 EXP JUN 15, 2018

 FNED 00000000
 FNED 000000000

FNED 00000000

PRD

ST DATE

FILM
 ST DATE
 FILM

 AZ 06022017
 \$15305K005

OTC OD OTC 0431447

LEGAL STATUS

CODE

Α

05K0017153011

OWNER1 ROBERT, JOHN, SIVAK OWNER2

TITLE

M/ADR 1969 E PALOMINO DR

CITY TEMPE

ST AZ 852848026

co 07

L/ADR

CITY

co 00

COMMENTS

LIEN1

DATE

LEGAL STATUS

ADR LIEN2

ADR

DATE

DATE

LEGAL STATUS

LIEN3

ADR

STATUS CODE 25 70