

## DRAFT MINUTES HEARING OFFICER December 17, 2019

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Tempe History Museum located at 809 East Southern Avenue, Tempe, Arizona 85282 at 5:00pm.

### REGULAR SESSION 5:00 PM

**Present:**

Vanessa MacDonald, Hearing Officer  
Jeff Tamulevich, Code Compliance Administrator  
Drew Yocom, Code Compliance Analyst  
Shelbie Meyer, Administrative Assistant

There were (4) interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Vanessa MacDonald. Hearing Officer MacDonald stated anyone wishing to appeal a decision will need to file a written appeal within fourteen (14) calendar days, by December 31, 2019 at 3:00 PM, to the Community Development Department.

1. The following was noted:

• **Agenda Item No. 1**

**November 19, 2019 Hearing Officer Minutes**

**Vanessa MacDonald**, Hearing Officer, stated the November 19, 2019 Hearing Officer Minutes had been reviewed and were approved.

2. Request abatement of public nuisance items at the HALL PROPERTY located at 1248 W 10th Place. The applicant is the City of Tempe (CE194523).

Andres Lara-Reyes, Code Inspector, gave the following overview of this case:

- Inspector requested a 180-day abatement of this property for junk, trash, and debris with over height grass and weeds.
- Since June of 2019, this property has been in violation along with reinspection fees and citations issued.
- This property has been abated many times in the past with the property owner never corresponding with the inspector.

Hearing Officer MacDonald approved a 180-day abatement.

3. Request abatement of public nuisance items at the VILLASENOR PROPERTY located at 1876 E Dunbar Drive. The applicant is the City of Tempe (CE193519).

Michael Glab, Code Inspector, gave the following overview of this case:

- In May 2019, the Code Compliance Division received a complaint for deteriorated landscape.
- Little to no change as of December along with property owner being found responsible in court.
- December 6, 2019, property owner contacted Inspector Glab wanting to grow grass, but no avail.

Hearing Officer MacDonald approved a 180-day abatement.

4. Request abatement of public nuisance items at the SMITH PROPERTY located at 209 W Southern Avenue. The applicant is the City of Tempe (CM190735).

Marvin White, Code Inspector, gave the following overview of this case:

- Inspector White indicated that violations include over height grass and weeds in gravel and debris where property owner has been issued a citation.
- Property owner has been in contact with Inspector White but refuses to make improvements to the property.

Hearing Officer MacDonald approved a 180-day abatement.

6. Request abatement of public nuisance items at the ARIZONA INSTANT FUNDING LLC PROPERTY located at 114 E. Garfield Street. The applicant is the City of Tempe (CE188434).

Hector Heredia, Code Inspector, gave the following overview of this case:

- Inspector Heredia indicated that this case has been open for almost a year with many changes of ownership. Notices were issued to property owners throughout the year, with no avail.
- Inspector Heredia indicated that the property is vacant with overgrowth throughout the property, with a deteriorated roof.
- Hearing Office MacDonald was concerned about the unpermitted structure that was encroaching the setback, Inspector Heredia did not recall about any building permits or complaints regarding that issue.

Hearing Officer MacDonald approved a 180-day abatement.

5. Request abatement of public nuisance items at the VAN EGMOND PROPERTY located at 1620 E Williams Street. The applicant is the City of Tempe (CE190735).

Hector Heredia, Code Inspector, gave the following overview of this case:

- Inspector Heredia indicated there have been anonymous complaints regarding over grown vegetation around perimeter and dead palm tree fronds.
- Property was fully initiated in April, later Mr. Van Egmond was ticketed and found guilty in court as a result. There has been little to no progress as of then.
- Inspector indicated that the overgrown decorative grass is adequate, but the main concern is the dead palm tree fronds descending from the palm tree in the back and the deteriorated landscape.

Warren Van Egmond, property owner, expressed his concerns as follows:

- Van Egmond acknowledged that he responded to Inspector Heredia's violation notices and letters, Van Egmond began to read each response dating back from January 31, 2019 from Inspector Heredia and Manager, Jeff Tamulevich, and even palm tree violations from three (3) years ago from a different inspector, Inspector Glab.
- Van Egmond denies he was found responsible in court in July, yet Van Egmond admitted the Judge agreed with Inspector Heredia regarding the palm tree. Van Egmond believes the court decision is wrong and claimed that he appealed this judgement through Superior Court on the basis that the statute is an open legal question. Hearing Officer MacDonald asked for a judicial order, Van Egmond could not provide such documents due to court never providing a written order, only a receipt for the appeal. Van Egmond does not believe that the hearing officer meeting can take place due to his beliefs that this is an open legal question. Hearing Officer MacDonald corrected Van Egmond that the hearing officer meeting is separate and valid which can simultaneously proceed with his Superior Court case. Van Egmond argued that it is still inappropriate to proceed. Hearing Officer MacDonald believes that Van Egmond was given adequate due process and that Van Egmond's landscape needs remediation.
- Hearing Officer MacDonald asked Mr. Van Egmond's opposition for having the palm tree trimmed. He responded with the cost being an issue and carbon dioxide emissions through power tools. Hearing Officer MacDonald stated that this is not a climate change issue, and more about adhering to Tempe's city code. Mr. Van Egmond believes that his tree does not violate Code since his tree is in the back yard, therefore, it does not qualify as landscape, according to his interpretation of Chapter 21 of the nuisance code, as well as the Oxford dictionary. Hearing Officer MacDonald did not agree with his interpretation of Tempe City Code or the application of the Oxford dictionary.
- Mr. Van Egmond believes his property is being singled out. Hearing Officer MacDonald explained that his property has had anonymous complaints and that he has been given ample time. Mr. Van Egmond explained that three (3) years ago, the state of his palm tree was accepted by Inspector Glab and Hearing Officer MacDonald said that Inspector Glab's case is not relevant to Inspector Heredia's case.
- Mr. Van Egmond said he is not able to pay the estimate of the palm tree trimming nor is there easy access to trim the palm tree.
- Mr. Van Egmond explained how big the palm tree in the back has gotten over the years, so much so, that it is considered a "menace" needing an extension latter to take care of over time. He is willing to go through all bases of appeal because he believes it is not bothering him or anyone else.
- Hearing Office MacDonald read emails into the record from two individuals that were interested in Mr. Van Egmond's property: one email in support of the abatement, the other in opposition.

James Bankhead, City of Tempe resident, expressed his concerns as follows:

- Mr. Bankhead supports Mr. Van Egmond's view on climate change and his opposition to not cut his palm fronds.
- Mr. Bankhead believes the City of Tempe is becoming unlivable.

Jeff Tamulevich, Code Compliance Administrator, gave following remarks:

- Mr. Tamulevich cleared any uncertainty by explaining to Mr. Van Egmond that the dead palm fronds in the back yard, any obstruction of sidewalk, dead vegetation and over height grass and weeds in the front yard are all concerns that need to be addressed.

Hearing Officer MacDonald approved a 180-day abatement.

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**ANNOUNCEMENTS**

- Drew Yocom announced that the next meeting will take place on January 7, 2020.

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With no further business, the public hearing adjourned at 6:45 PM.

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Prepared by: Shelbie Meyer  
Reviewed by: Drew Yocom

Drew Yocom, Planning and Research Analyst  
For Vanessa MacDonald, Hearing Officer

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