

**CITY OF TEMPE
HEARING OFFICER**

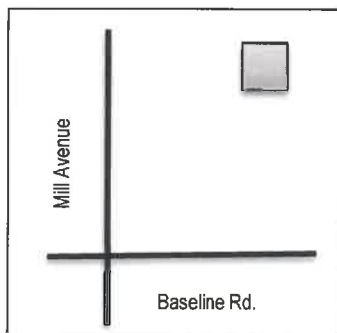
**Meeting Date: 05/16/2023
Agenda Item: 2**

ACTION: Request approval to abate public nuisance items at the Brice Davis Property located 426 E. Greenway Drive. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$1310 for abatement request: landscape cleanup, front & 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 BRICE DAVIS 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 CE225994: landscape cleanup, front & side yards.



Property Owner
Applicant
Zoning District
Code Compliance
Inspector:

Jeremy Brice and Jessie Davis
City of Tempe – Code Compliance
R1-6 Single Family Residential
Barbara Simons

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 Brice Davis Property located at 426 E. Greenway Drive, in the R1-6 Single Family Residential district. This case was initiated 10/05/2022, 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.

ABATEMENT

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)

PROJECT INFORMATION – REQUIRED			
PROJECT NAME	BRUCE DAVIS PROPERTY ABATEMENT	EXISTING ZONING	R1-6 <input type="checkbox"/>
PROJECT ADDRESS	426 E GREENWAY DR TEMPE AZ 85282	SUITE(S)	<input type="checkbox"/>
PROJECT DESCRIPTION	ABATEMENT OF CE225994 HEARING IS MAY 16, 2023	PARCEL No(s)	133-41-535 <input type="checkbox"/>

PROPERTY OWNER INFORMATION – REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW & SIGN TYPE K)			
BUSINESS NAME		ADDRESS	426 E GREENWAY DR
CONTACT NAME	JESSIE MARIE DAVIS	CITY	TEMPE
EMAIL		PHONE 1	
		PHONE 2	

I hereby authorize the applicant below to process this application with the City of Tempe.

PROPERTY OWNER SIGNATURE	X	DATE	
or attach written statement authorizing the applicant to file the application(s)			

APPLICANT INFORMATION – REQUIRED			
COMPANY / FIRM NAME	CITY OF TEMPE	ADDRESS	21 E 6TH ST.
CONTACT NAME	BARBARA SIMONS	CITY	TEMPE
EMAIL	barbara_simons@tempe.gov	PHONE 1	480-350-5460
		PHONE 2	

I hereby attest that this application is accurate and the submitted documents are complete. I acknowledge that if the application is deemed to be incomplete it will be returned to me without review, to be resubmitted with any missing information.

APPLICANT SIGNATURE	X <i>Barbara Simons</i>	DATE	4/12/23
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BUSINESS INFORMATION – REQUIRED FOR USE PERMITS & SIGN DPRs			
BUSINESS NAME		ADDRESS	
CONTACT NAME		CITY	
TYPE OF BUSINESS		PHONE	
		EMAIL	

APPLICATION (Check all that apply)	QTY	SPECIFIC REQUEST (See Planning & Zoning Fee Schedule for types)	FOR CITY USE ONLY (Planning record tracking numbers)	
<input type="checkbox"/> A. PRELIMINARY SITE PLAN REVIEW			SPR	
<input type="checkbox"/> B. ADMINISTRATIVE APPLICATIONS			ADM	
<input type="checkbox"/> C. VARIANCES			VAR	
<input type="checkbox"/> D. USE PERMITS / USE PERMIT STANDARDS			ZUP	
<input type="checkbox"/> E. ZONING CODE AMENDMENTS			ZOA	ZON
<input type="checkbox"/> F. PLANNED AREA DEVELOPMENT OVERLAYS			PAD	REC
<input type="checkbox"/> G. SUBDIVISION / CONDOMINIUM PLATS			SBD	REC
<input type="checkbox"/> H. DEVELOPMENT PLAN REVIEW			DPR	
<input type="checkbox"/> I. APPEALS				
<input type="checkbox"/> J. GENERAL PLAN AMENDMENTS			GPA	
<input type="checkbox"/> K. ZONING VERIFICATION LETTERS			ZVL	
<input checked="" type="checkbox"/> L. ABATEMENTS			CE	CM
<input type="checkbox"/> M. SIGN TYPE K			GO	SE
TOTAL NUMBER OF APPLICATIONS	0			

FOR CITY USE ONLY			
DS TRACKING #		FILE APPLICATION WITH CE / CM / IP TRACKING #	DATE RECEIVED (STAMP)
PL TRACKING #			VALIDATION OF PAYMENT (STAMP)
SPR TRACKING # (if 2 nd or 3 rd submittal, please use Planning Resubmittal Form)			TOTAL APPLICATION FEES
			RECEIVED BY INTAKE STAFF (INITIALS)

SEE REVERSE SIDE FOR REQUIRED PROJECT DATA

DATE: 04/12/2023
TO: Julie Scofield, Senior Code Inspector
FROM: Barbara Simons
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE225994

LOCATION: 426 E Greenway Drive Tempe, AZ 85282
LEGAL: Parcel #133-41-535, as recorded with the Maricopa County Assessor
OWNER: BRICE JEREMY BENTON/DAVIS JESSIE MARIE
426 E GREENWAY DRIVE
TEMPE, AZ 85282

FINDINGS:

10/05/22 - Case was opened proactively for a weeds and/or grass in the gravel landscape in the front yard. Notice to comply was mailed to Jeremy Benton Brice and Jessie Marie Davis with a re-inspection date of 11/24/22.

11/08/22 – The property was inspected and the grass and/or weeds remained. A final violation notice was sent with a re-inspection date of 11/28/22.

01/04/2023 – The owner Jessie Davis left a voice message stating that her fiancé had cleaned up the yard. On 1/11/2023 I re-inspected the property and found the weeds had not been sufficiently removed. I left the owner a voice message that I would be issuing a citation on 01/17/2023 if it was not taken care of.

01/18/2023 – No change was observed to the property. Photos were taken and Citation #1702164 was issued.

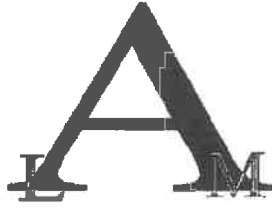
04/12/2023 – The property was inspected with no change to its condition. Code Compliance filed for an Abatement Hearing. Notice was posted to the property.

RECOMMENDATIONS:

I recommend the approval of a 180-day open abatement period for removal of excess fronds from 426 E. Greenway Drive, which is owned by Jeremy Benton Brice and Jessie Marie Davis. The owners have been given ample time and opportunities to bring this property into compliance and has failed to take any corrective action.

Respectfully submitted,
Barbara Simons

ACTION TAKEN: Submitted
NAME: Julie Scofield
DATE: 4/12/23



Artistic Land Management, Inc.

March 27, 2023

City of Tempe
Attn: Julie Scofield
Code Inspector

RE: Clean-Up at 426 E. Greenway 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 426 E. Greenways Dr, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

Scope of Work

- Cut down weeds, tall grasses, and unwanted vegetation in the front and backyards of the property
- Haul off vegetation debris
- Police presence on-site for duration of the visit

Total: \$1,310.00

Respectfully,

Jose Hernandez



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 04/12/2023
CASE #: CE225994

BRICE JEREMY BENTON/DAVIS JESSIE MARIE
426 E GREENWAY DR
TEMPE, AZ 85282

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

LOCATION: 426 E GREENWAY DR TEMPE, AZ 85282
PARCEL: 133-41-535

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

CC 21-3.b.8 Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches

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

CC 21-3.b.8 **Please completely remove the weeds and/or grass growing in the gravel landscape in the front and back yards.**

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 **\$1310.00**. In addition to the actual cost of abatement, an administrative charge of fifteen percent (15%) 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 of 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: Barbara Simons
Phone Number: 480-350-5460
E-mail: Barbara_Simons@tempe.gov









COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

10/05/2022

BRICE JEREMY BENTON/DAVIS JESSIE MARIE
426 E GREENWAY DR
TEMPE, AZ 85282

Case #: CE225994
Site Address: 426 E GREENWAY DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 10/05/2022 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	Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.8	Please completely remove the weeds and/or grass growing in the gravel landscape in the front yard.	10/24/2022

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

Barbara Simons
Code Inspector

Direct: 480-350-5460
Code Compliance: 480-350-4311
Email: Barbara_Simons@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

11/08/2022

BRICE JEREMY BENTON/DAVIS JESSIE MARIE
426 E GREENWAY DR
TEMPE, AZ 85282

Case #: CE225994
Site Address: 426 E GREENWAY DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 11/08/2022 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	Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.8	Please completely remove the weeds and/or grass growing in the gravel landscape in the front yard.	11/28/2022

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

Barbara Simons
Code Inspector

Direct: 480-350-5460
Code Compliance: 480-350-4311
Email: Barbara_Simons@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).
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Arizona Traffic Ticket and Complaint

City of Tempe
Maricopa County,
State of Arizona



Complaint Number 1702164	Case Number	Social Security Number	Military	<input type="checkbox"/> Serious Physical Injury	<input type="checkbox"/> Accident	<input type="checkbox"/> Fatality	<input type="checkbox"/> Commercial
Driver's License No.	DLP <input type="checkbox"/>	State	Class	Endorsements M H N P T X D	<input type="checkbox"/> 16 Passenger Vehicle	<input type="checkbox"/> Haz. Material	Incident Report Number CE225994
Interpreter Required? <input type="checkbox"/> Spanish <input type="checkbox"/> Other Language							
Defendant Name (First, Middle, Last) JESSIE MARIE DAVIS							Juvenile
Residence Address, City, State, Zip Code 426 E GREENWAY DR. TEMPE AZ 85282						Telephone: (cell phone) <input type="checkbox"/>	
Sex	Height	Weight	Eyes	Hair	Origin	Date of Birth	Restrictions
Business Address, City, State, Zip Code						Business Phone No.	
Vehicle	Color	Year	Make	Model	Style	License Plate	State
Registered owner & address, City, State, Zip Code						Vehicle Identification Number	

The Undersigned Certifies That:

On	Month 01	Day 18	Year 2023	Time 1:45	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Speed	Approx.	Posted	R & P	Speed Measurement Device <input type="checkbox"/> Radar <input type="checkbox"/> Laser <input type="checkbox"/> Pace	Direction of Travel	
At	Location 426 E. GREENWAY DR.						<input checked="" type="checkbox"/> Tempe	85282	Area	Dist.	State of Arizona	

The Defendant Committed the Following:

A	Section: TC 21-3 A	ARS Violation: CC 21-3.b.8 DETERIORATED LANDSCAPE	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input checked="" type="checkbox"/> Municipal Code <input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD					
B	Section:	ARS Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code <input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD					
C	Section:	ARS Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code <input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD					
D	Section:	ARS Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code <input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD					
E	Section:	ARS Violation:	<input type="checkbox"/> Domestic Violence Case	<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
	Docket Number	Disp. Code:	Date of Disposition:	Sanction:	<input type="checkbox"/> Municipal Code <input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense
MVD					

You must appear on the date and time indicated at:	Tempe Municipal Court 140 E. 5th Street Tempe, AZ 85281 Court No. 0753	<input checked="" type="checkbox"/> Traffic Court Suite 150, 1st Floor	Date: 2/1/2023	Time: Between 9AM & 4PM
	<input type="checkbox"/> Court:	<input type="checkbox"/> Criminal Court Suite 200, 2nd Floor	Date: _____	Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM
	Court Address, City, State, Zip Code	Date: _____	Time: _____	<input type="checkbox"/> AM <input type="checkbox"/> PM Court No. _____

Criminal: <input type="checkbox"/> Without admitting guilt, I promise to appear as directed hereon.	Victim? <input type="checkbox"/>	Victim Notified? <input type="checkbox"/>
Civil: <input type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.	I certify that upon reasonable grounds I believe the defendant committed the act described contrary to law and I have served a copy of this complaint upon the defendant.	
X MAILED & POSTED TO PROPERTY	COMPLIANCE	8042

Comments:
Juvenile Notification:
 Failure to appear or comply as ordered will result in a suspension of your driver's license/driving privileges until you comply or reach your 18th birthday. Initials _____
 Date issued if not violation date _____

1ST VIOLATION - \$200 FINE

COMPLAINT

If the defendant fails to appear within the time specified, and either pay the fine for the violation or request a hearing, judgment by default will be entered in the amount of the fine designated on the citation for the violation charged plus a penalty amount.



1702164