

**CITY OF TEMPE
HEARING OFFICER**

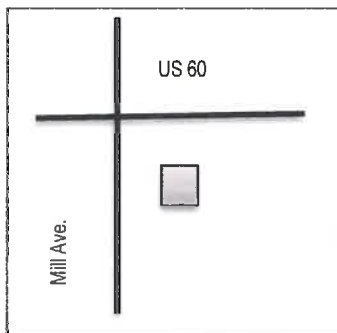
**Meeting Date: 11/17/2020
Agenda Item: 4**

ACTION: Request approval to abate public nuisance items at the Bergner Property located at 136 E. Fremont Drive. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$1522.00 for abatement request: landscape cleanup, remove dead tree, remove junk/trash/debris.

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 BERGNER 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 CE204495: landscape cleanup, remove dead tree, remove junk/trash/debris.



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

Billy Bergner
City of Tempe – Code Compliance
R1-6 Single Family Residential
Julie 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 Bergner Property located at 136 E. Fremont Drive, in the R1-6, Single Family Residential district. This case was initiated 07/13/20, 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	Bergner Property Abatement	EXISTING ZONING	R1-6 <input type="checkbox"/>
PROJECT ADDRESS	136 E. Fremont Dr. Tempe, AZ 85282	SUITE(S)	<input type="checkbox"/>
PROJECT DESCRIPTION	Abatement of CE204495 Hearing is November 17th, 2020	PARCEL No(s)	133-41-085 <input type="checkbox"/>

PROPERTY OWNER INFORMATION - REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW & SIGN TYPE K)					
BUSINESS NAME		ADDRESS	136 E. Fremont Dr.		
CONTACT NAME	Billy Bergner	CITY	Tempe	STATE	AZ ZIP 85282
EMAIL		PHONE 1		PHONE 2	

I hereby authorize the applicant below to process this application with the City of Tempe.
 PROPERTY OWNER SIGNATURE DATE

APPLICANT INFORMATION - REQUIRED					
COMPANY / FIRM NAME	Community Development	ADDRESS	21 E. 6th St.		
CONTACT NAME	Julie Scofield	CITY	Tempe	STATE	AZ ZIP 85281
EMAIL	julie_scofield@tempe.gov	PHONE 1	480-350-8951	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 Julie Scofield DATE 10/8/2020

BUSINESS INFORMATION - REQUIRED FOR USE PERMITS & SIGN DPRs					
BUSINESS NAME		ADDRESS			
CONTACT NAME		CITY		STATE	ZIP
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)	VALIDATION OF PAYMENT (STAMP)
PL TRACKING #			TOTAL APPLICATION FEES
SPR TRACKING # (if 2 nd or 3 rd submittal, please use Planning Resubmittal Form)			RECEIVED BY INTAKE STAFF (INITIALS)

SEE REVERSE SIDE FOR REQUIRED PROJECT DATA

DATE: October 8th, 2020
TO: Jeff Tamulevich, Code Compliance Administrator
FROM: Julie Scofield, Code Inspector
SUBJECT: CE204495, Bergner Property Abatement

LOCATION: 136 E. FREMONT DR TEMPE, AZ 85282

LEGAL: TEMPE GARDENS 3

PARCEL: 133-41-085

OWNER: BILLY BERGNER
136 E. FREMONT DR
TEMPE, AZ 85282

FINDINGS:

07/13/2020 The Code Compliance Division received a complaint for deteriorated landscape and junk, trash, debris. Inspected the property and found over height grass and weeds in the front and back yard. A dead tree on the side of the house. There is trash and debris in the front and back of the property as well. Notice to comply was mailed to the owner.

07/30/2020 Re-inspected the property. There has been no change to the landscape or junk and debris. A final notice was mailed to the owner.

09/09/2020 A online complaint was received for this property regarding the landscape, junk and debris, roof, and fencing.

09/23/2020 Hung a pink hanger on the door asking for contact or compliance by 9/28/2020 to avoid further actions. Did notice there was a sign on the door saying "danger" not safe to occupy. There was also another sign on the door saying asbestos. When looking at the back of the property, noticed the back door was unsecure.

09/28/2020 Looking into the history of property, there was a fire, and the fire department deemed the house uninhabitable. They made the owner leave. Did receive a phone call from Safeguard Properties who are in contact with the owner. They were going to relay the violations to him. Requesting a bid to have the property cleaned up and secured.

10/08/2020 Turning in the paperwork for the hearing to be held on November 17th, 2020.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violation at the property located at 136 E. Fremont Dr. The property owner has failed to bring the property into compliance with Tempe City Code 21-3. B.8 and 21-3. B.1. Mr. Bergner has been given ample time. The property represents 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,

Julie Scofield
Code Inspector II

ACTION TAKEN:

Submit

NAME

Julie Scofield

DATE:

10 8 20



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

Date: 10/08/2020
Case #: CE204495

**BERGNER BILLY
136 E FREMONT DR
TEMPE, AZ 85282-6708**

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

Location: 136 E FREMONT DR TEMPE, AZ 85282
Parcel: 13341085

This office will submit this complaint to the Community Development Abatement Hearing Officer to be placed on the Hearing Officer agenda of November 17th, 2020 located at the Tempe Council Chambers, 31 E 5th Street, at 5pm. 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.1 Filthy, littered, debris or trash-covered exterior areas
- CC 21-3.b.8 Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches

If the violations have not been corrected within thirty (30) 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:

- CC 21-3.b.1 Please remove trash, litter and debris from property
- CC 21-3.b.8 Please cut overheight/weeds and grass. Cut down to ground level the dead tree.

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 \$1522.00 . 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 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: Julie Scofield
Phone Number: 480-350-8951
E-mail: julie_scofield@tempe.gov

HAMANN ENTERPRISES, LLC

2925 N 19TH AVE UNIT 97

PHOENIX, AZ 85015

(602) 575-4455

hamannenterprises@yahoo.com

THE FOLLOWING DOCUMENT IS FOR:

NAME: JULIE SCOFIELD

FIRM: CITY OF TEMPE

DATE: 10/4/20

PROPOSAL

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

ADDRESS: 136 E FREMONT DR

1 LANDSCAPE AND REMOVE TRASH AND DEBRIS, FRONT AND BACK YARDS REMOVE DEAD TREE IN BACK YARD	\$800.00
2 ESTAMATED DUMP FEES	\$100.00
3 SECURITY BY TEMPE PD	\$552.00
4 SECURE BUILDING IN BACK YARD	\$70.00
5	\$0.00
6	\$0.00
TOTAL COST OF JOB	<hr/> \$1,522.00

THANK YOU FOR YOUR BUSINESS

BOB HAMANN



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

07/13/2020

BERGNER BILLY
136 E FREMONT DR
TEMPE, AZ 85282-6708

Case#: CE204495
Site Address: 136 E FREMONT DR. TEMPE, AZ 85282

SITE REINSPECTION ON OR AFTER: 07/28/2020 (FOR THE JUNK, TRASH, DEBRIS) AND 08/12/2020 (FOR THE ROOF AND FENCING.

This is a notice to inform you that this site was inspected on 07/13/2020 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-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.

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 the Tempe City Code, Chapter 21-3-b-15

Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or slum-like appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof;

Violation of the Tempe City Code, Chapter 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 the Tempe City Code, Chapter 21-4-2

For any residential property:

- a. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;
- b. Exterior painted surfaces with loose, cracked, scaling, chipping or peeling paint, visible from a public area, in such amounts as to present a deteriorated or slum-like appearance;
- c. Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or slum-like appearance;
- d. Replacement materials and paint used to repair or repaint exterior surfaces of a building shall be visually compatible with the remainder of the materials and paint on the exterior of the structure.
- e. Glazed area not in sound condition or maintained free of missing, loose, cracked or broken glass; or
- f. Exterior doors, garage doors, door hardware and door frames not maintained in sound condition, or kept free from holes, breaks, and cracks; or any exterior door incapable of functioning as intended by its design.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

1. PLEASE REMOVE AND OR PROPERLY DISCARD THE ITEMS IN THE FRONT AND BACK OF THE PROPERTY. THIS INCLUDES THE WOOD, TRASH, BAGS, AND ANY OTHER MISCELLANEOUS ITEMS. INCLUDING THE WOOD ON TOP OF THE HOUSE.
2. PLEASE CUT ALL OVER HEIGHT GRASS AND OR WEEDS IN THE BACK YARD OF THE PROPERTY.
3. PLEASE FIX/REPAIR THE ROOF WHERE IT APPEARS TO BE CAVING IN. REMOVE WOOD PIECES.
4. PLEASE FIX THE FENCE IN THE BACK YARD IN THE ALLEY WHERE THERE IS WOOD PLANKS. CONTINUE TO GO ALL THE WAY TO TOP OF FENCING AND PAINT TO MATCH EXISTING FENCING.

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

Julie Scofield
Code Inspector II
E-Mail

Direct: 480-350-8951
Code Compliance: 480-350-8372
julie_scofield@tempe.gov

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.

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).



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE**

07/30/2020

BERGNER BILLY
136 E FREMONT DR
TEMPE, AZ 85282-6708

Case#: CE204495
Site Address: 136 E FREMONT DR. TEMPE, AZ 85282

SITE REINSPECTION ON OR AFTER: 08/14/2020

This is a notice to inform you that this site was inspected on 07/30/2020 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.

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2. PLEASE CUT ALL OVER HEIGHT GRASS AND OR WEEDS IN THE BACK YARD OF THE PROPERTY.

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

Julie Scofield
Code Inspector II
E-Mail

Direct: 480-350-8951
Code Compliance: 480-350-8372
julie_scofield@tempe.gov

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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).



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE**

08/21/2020

BERGNER BILLY
136 E FREMONT DR
TEMPE, AZ 85282-6708

Case#: CE204495
Site Address: 136 E FREMONT DR. TEMPE, AZ 85282

SITE REINSPECTION ON OR AFTER: 09/21/2020

This is a notice to inform you that this site was inspected on 08/21/2020 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:

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Julie Scofield
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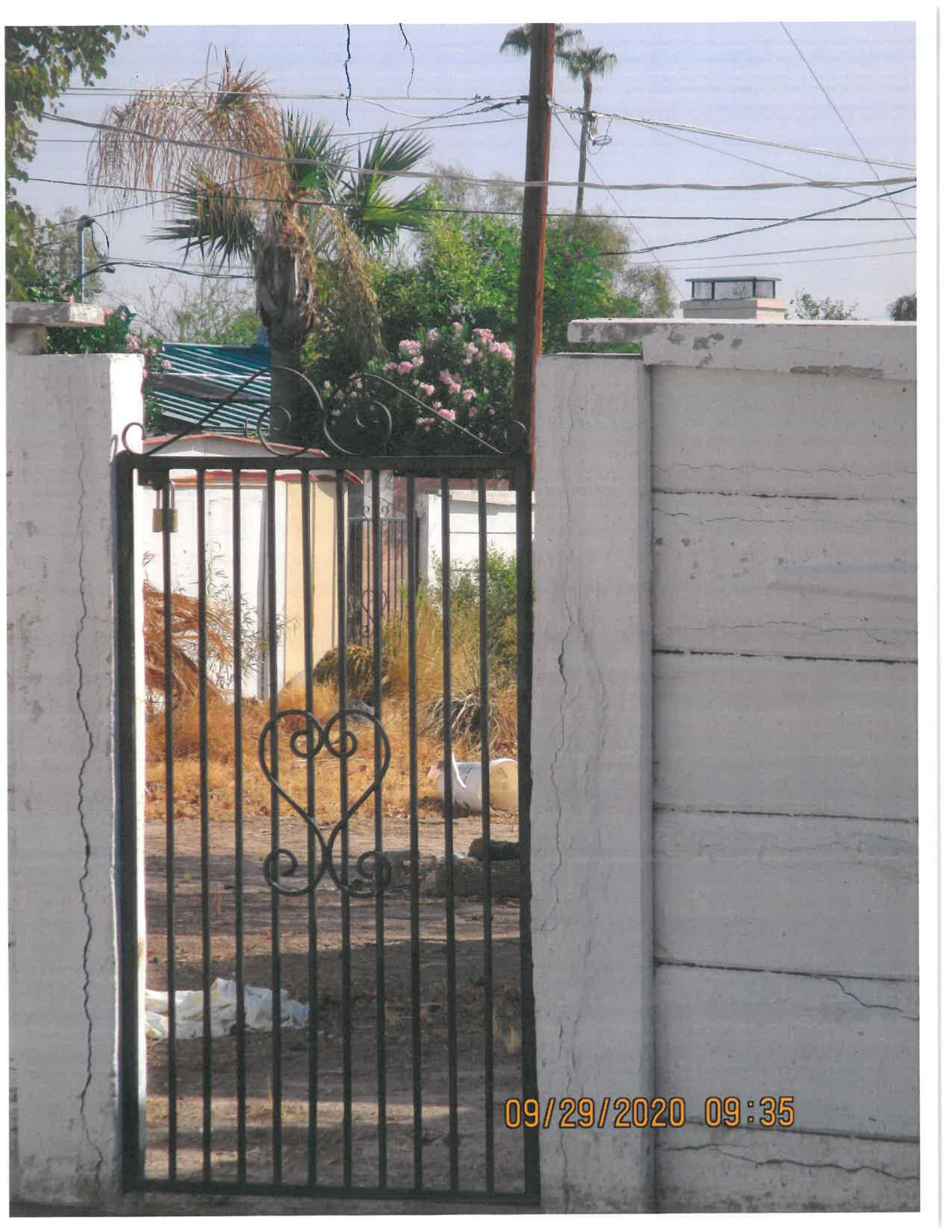
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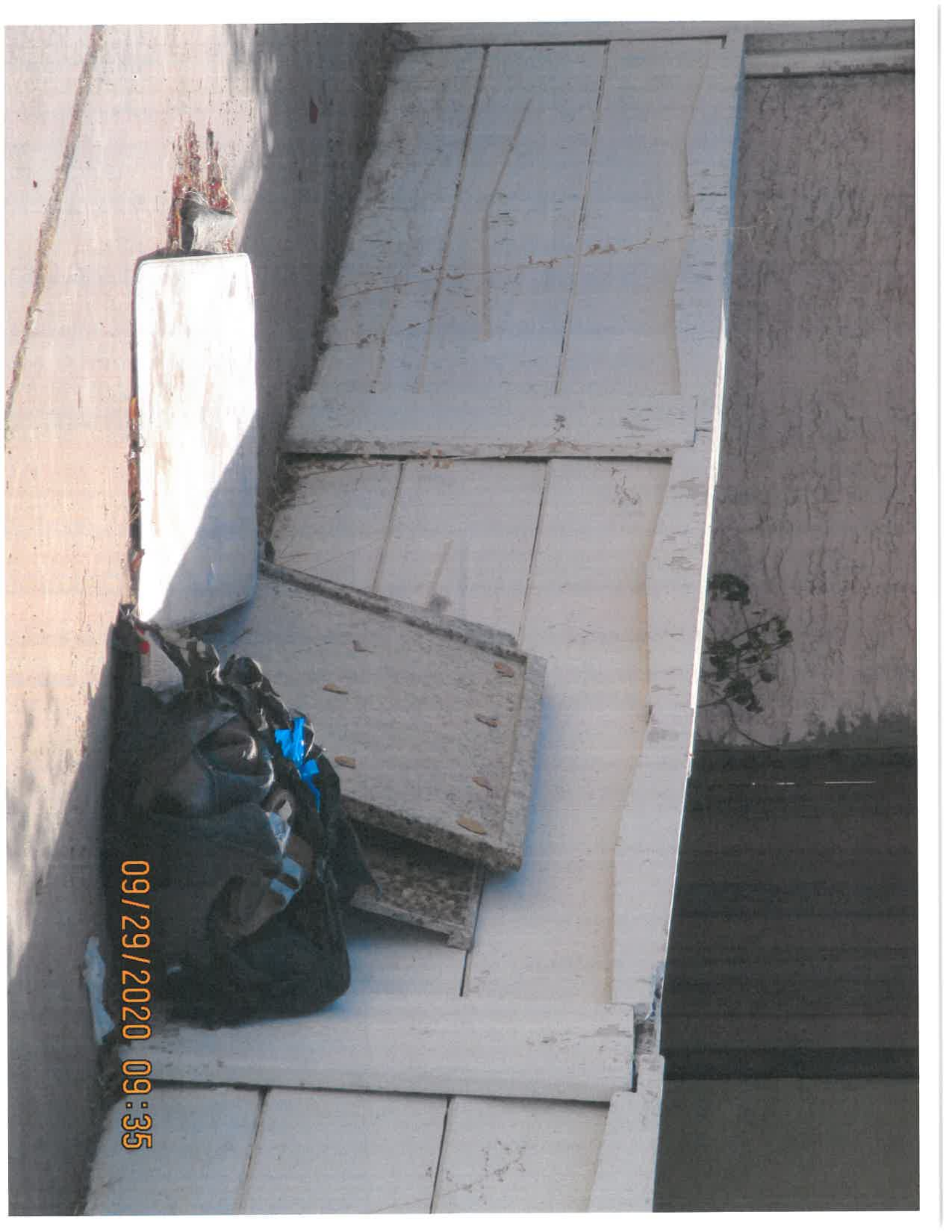


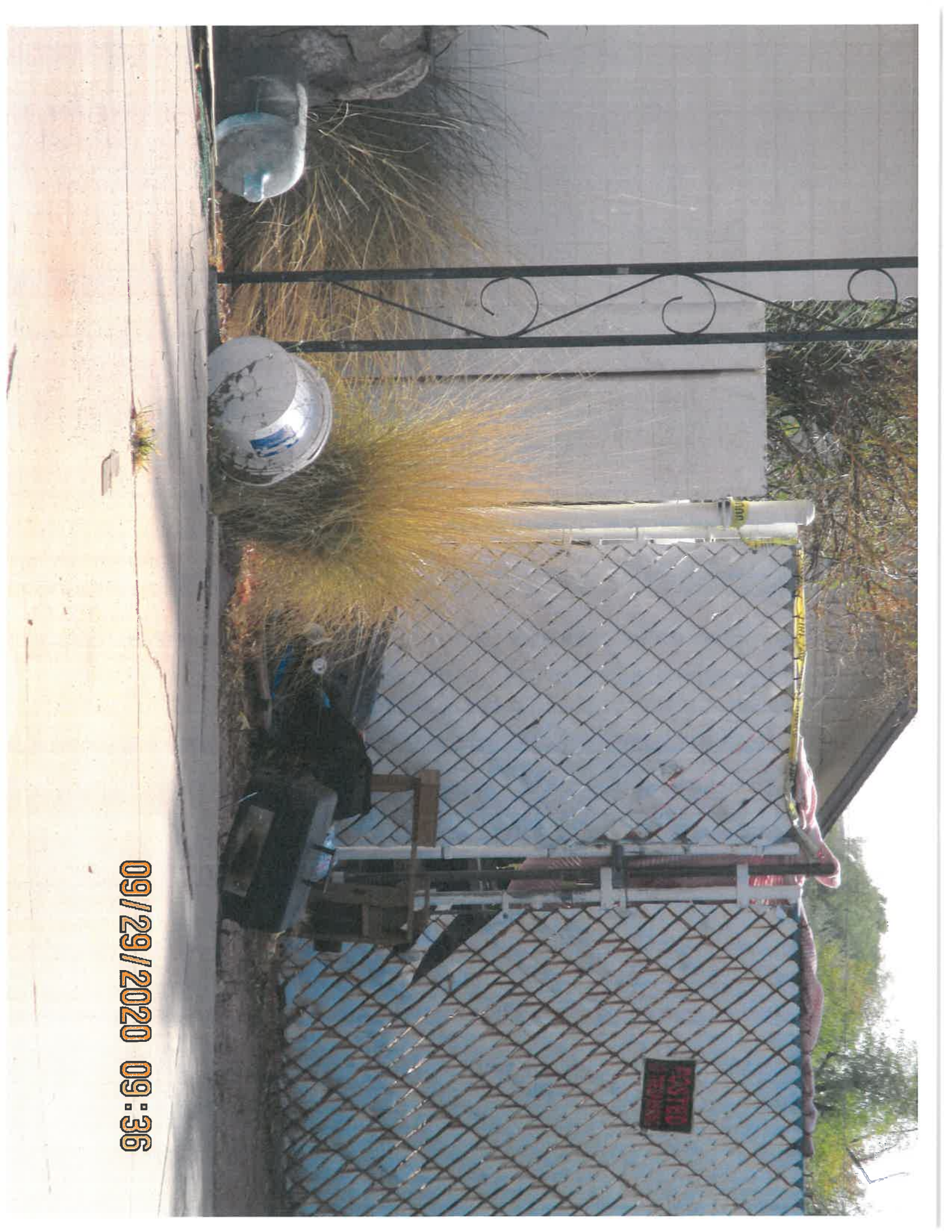
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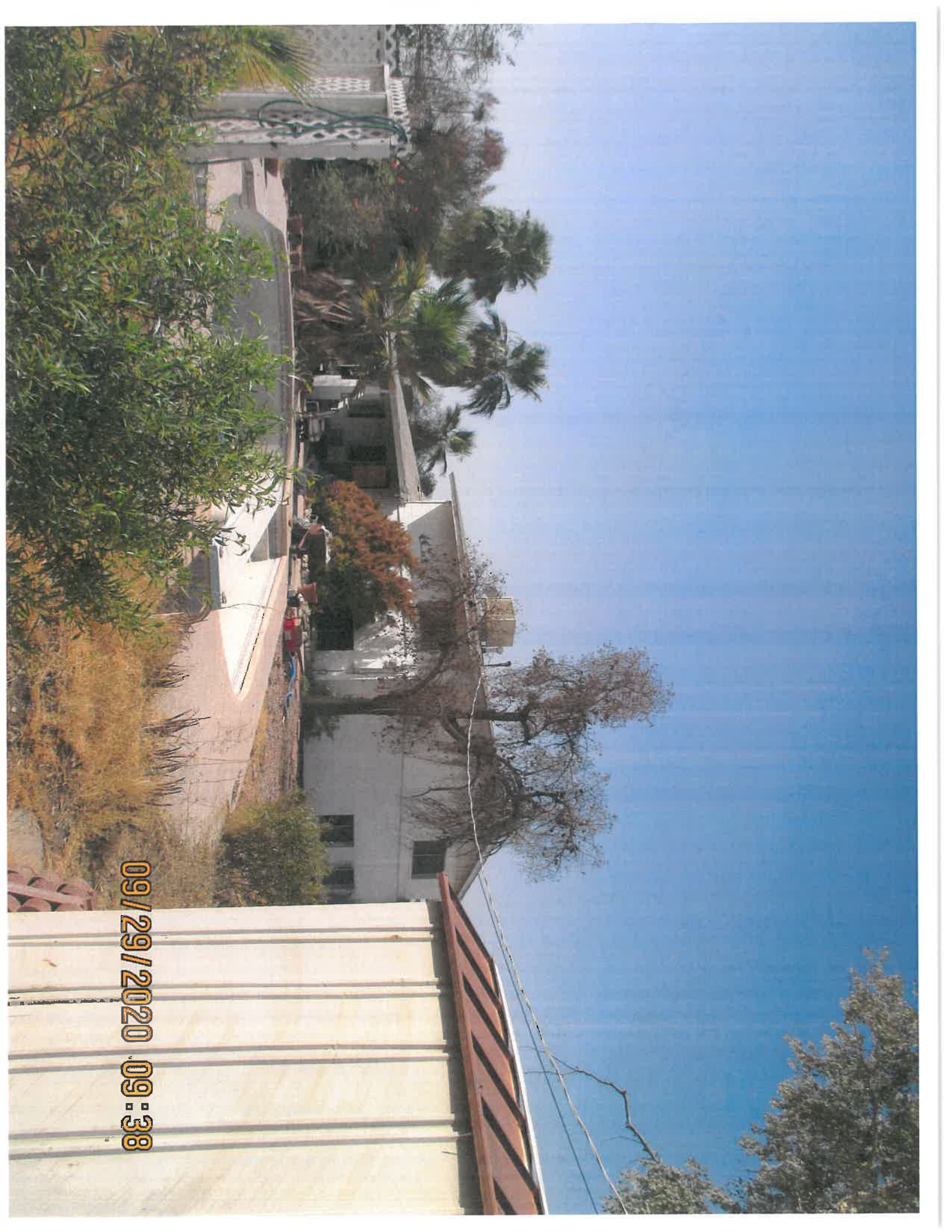
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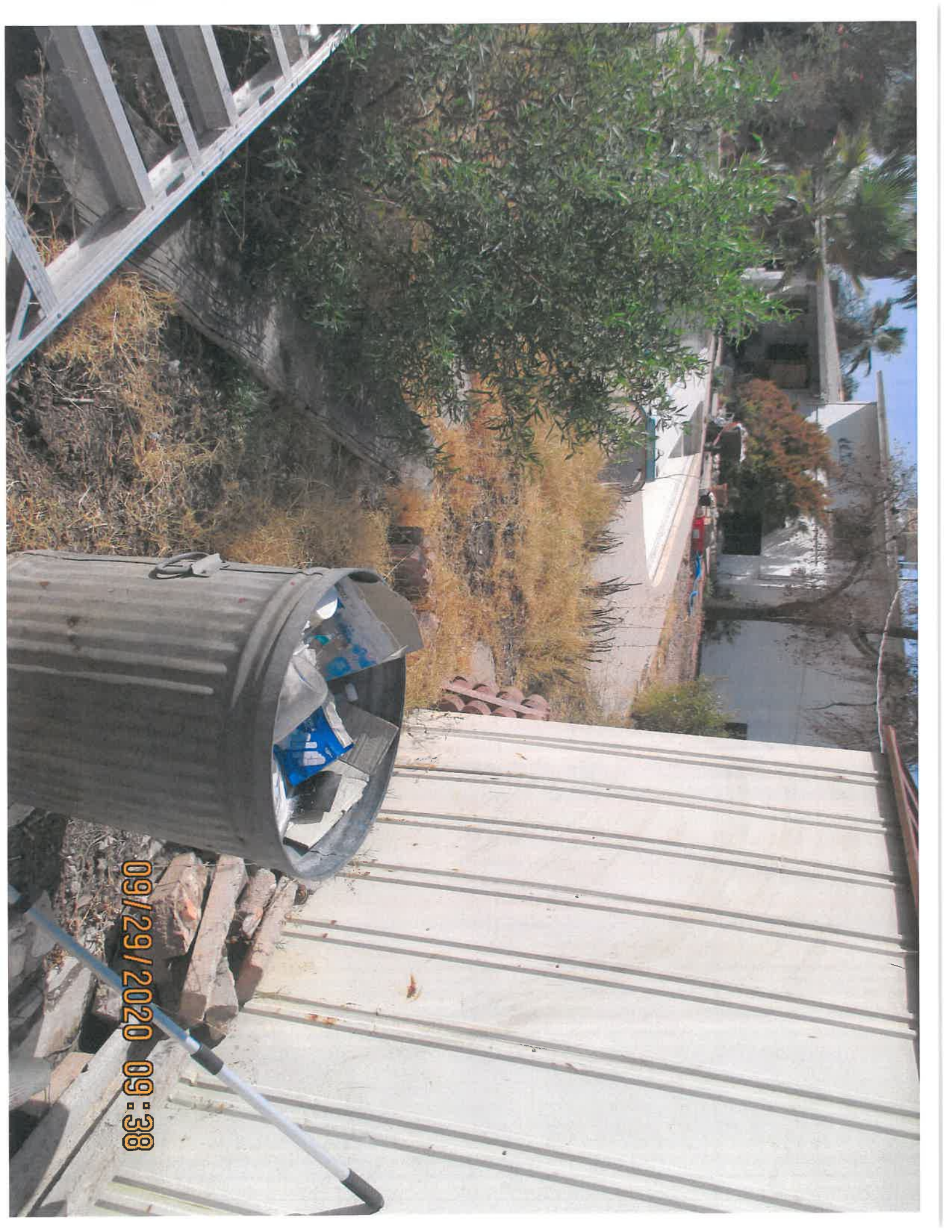
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