

**CITY OF TEMPE
HEARING OFFICER**

Meeting Date: 09/20/2022

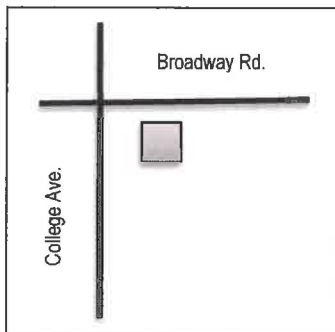
Agenda Item: 3

ACTION: Request approval to abate public nuisance items at the Felix 315 Property located at 315 E. Broadway Road. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$2,510 for abatement request: remove dead palm fronds on tree in front yard.

RECOMMENDATION: Staff – Approval of abatement

BACKGROUND INFORMATION: City of Tempe – Code Compliance Section requests approval to abate items in violation of the Tempe City Code at the FELIX 315 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 CE221913: remove dead palm fronds on tree in front yard.



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

Dixie L. Felix
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 Felix 315 Property located at 315 E. Broadway Road, in the R1-6 Single Family Residential district. This case was initiated 03/22/2022, 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 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

Project Submittal Application

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



Project Information - Required

Project Name: DIXIE L Felix Property Abatement

Project Address: 315 E Broadway Rd Suite No.:

Proposed Use of Building/Suite: Existing Zoning: R1-6

Legal Description: Attached Broadmor Manor AMD Parcel No.: 133.24.028A

Description of Work/Request: Hearing Officer: 092022CE221913

Valuation (for building plan review only):

Applicant Information - Required

Company or Firm Name: City of Tempe Code Compliance Telephone 1: 480350 Ext: 5462

Applicant's Name: Hector Heredia Code Inspector Telephone 2: _____ Ext: _____

Applicant's Street Address: 21 E 6th St Ste: 208 Fax: _____

City: Tempe State: AZ Zip: 85281 Email Address(es): _____

Applicant Signature: Hector Heredia Date: 08/03/22

For City Use Only

Planning	Fees	Building	Engineering	Submitted Materials:
<input type="checkbox"/> Recordation <input type="checkbox"/> SPR <input type="checkbox"/> PL Dev Plan Review <input type="checkbox"/> Sign Permit <input type="checkbox"/> Use Permit <input type="checkbox"/> Variance <input type="checkbox"/> General Plan Amend <input type="checkbox"/> Zoning Amend <input type="checkbox"/> Zoning Verification Letter <input type="checkbox"/> Subdivision/Condo <input type="checkbox"/> PAD Overlay <input type="checkbox"/> Legal Posting Signs <input type="checkbox"/> Administrative Decision <input checked="" type="checkbox"/> Abatement <input type="checkbox"/> Shared Parking <input type="checkbox"/> CCR Review <input type="checkbox"/> Continuance <input type="checkbox"/> Appeal <input type="checkbox"/> Other _____		<input type="checkbox"/> New Building <input type="checkbox"/> Com Add/Alt <input type="checkbox"/> TI <input type="checkbox"/> MF <input type="checkbox"/> NRes <input type="checkbox"/> Res Remodel/Add <input type="checkbox"/> Pool <input type="checkbox"/> Demo <input type="checkbox"/> Grading Only <input type="checkbox"/> Phased Constr <input type="checkbox"/> Phased Constr w/UG MEP <input type="checkbox"/> Structural Frame <input type="checkbox"/> MEP Only <input type="checkbox"/> Mobile Home <input type="checkbox"/> Factory Built Bldg <input type="checkbox"/> Deferred submittal <input type="checkbox"/> Revision <input type="checkbox"/> New Standard <input type="checkbox"/> Permits based on Standard #	<input type="checkbox"/> Engineering <input type="checkbox"/> Revision Tracking Nos.: DS _____ BP _____ RA _____ FR _____ RAF _____ EN _____ RAE _____ PL _____ SPR _____ SGN _____ GO _____ GOB _____ SE _____ ZP _____	_____ Building _____ Fire _____ Planning _____ Signs _____ Engineering <input type="checkbox"/> Spec Book(s) <input type="checkbox"/> Soils Report <input type="checkbox"/> Structural Calcs <input type="checkbox"/> Report <input type="checkbox"/> Truss Calcs <input type="checkbox"/> Materials <input type="checkbox"/> Hydraulic Calcs <input type="checkbox"/> Color Board <input type="checkbox"/> Parking Analysis <input type="checkbox"/> Haz Mat Form <input type="checkbox"/> Lighting Cut Sheets <input type="checkbox"/> Other: _____
				Total Valuation:
				Total Submittal Fees:
				Validation:
				Date Stamp:
			MCA Code:	
			File With:	
			Received By:	



DATE: 07.28.2022
TO: Julie Scofield, Senior Code Inspector
FROM: Hector Heredia, Code Inspector
SUBJECT: CE221913 : DIXIE L FELIX 315 E BROADWAY RD ABATEMENT FINDINGS

LOCATION: 315 E BROADWAY RD TEMPE, AZ 85282

PARCEL: 133.24.028A

OWNER: DIXIE L FELIX
315 E BROADWAY RD
TEMPE, AZ 85282

FINDINGS:

03.22.2022: The Code Compliance Division received a complaint for an overgrown palm tree including dead palm fronds on the front yard. These concerns were then verified, and a first notice was mailed to the property owner.

04.06.2022: At the second inspection no corrective action had taken place and a final notice was mailed to the property owner.

04.22.2022: An extension was requested and granted due to financial issues brought forth by the pandemic including ongoing health limitations and limited family assistance.

05.04.2022: At this inspection no corrective actions had taken place nor communication initiated. Additionally, anonymous complaints were received regarding the deteriorated state of the overgrown palm tree and dead fronds. A first citation was issued after the property was not brought into compliance.

06.30.2022: The property owner plead responsible and admitted that the violations were still pending.

08.03.2022: The abatement packet was turned in for the September 20th, 2022, Hearing Officer.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property located at 315 E BROADWAY RD due to property owner's failure to bring property into compliance with Tempe City Code 21-3.B.8. DIXIE L FELIX 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.

Respectfully submitted,

Hector Heredia
Code Inspector

ACTION TAKEN: Submitted
NAME Julie Scofield
DATE: 8/3/22



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 07.28.2022
CASE # CE221913

**DIXIE L FELIX
315 E BROADWAY RD
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: 315 E BROADWAY RD TEMPE, AZ 85282
PARCEL: 133.24.028A

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers on 09/20/2022. 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 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.

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 DETERIORATED OVERGROWN DEAD PALM FRONDS FROM TREES INCLUDING FRONT YARD

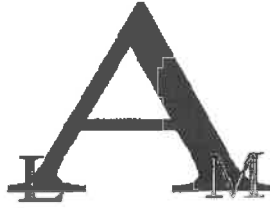
Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be **\$2,510.00**. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual 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



Artistic Land Management, Inc.

July 23, 2022

City of Tempe
Attn: Hector Heredia
Code Inspector

RE: Clean-Up at 315 E. Broadway Rd.

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 315 E. Broadway Rd, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

Scope of Work

- Remove dead palm fronds on two trees in the front yard
- Police presence on-site for duration of the visit

Total = \$2,510.00

Respectfully,

Jose Hernandez



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

03/22/2022

FELIX JOE A / DIXIE L
ATTN: CURRENT RESIDENT TENANT / JOE FELIX
315 E BROADWAY RD
TEMPE, AZ 85282

Case #: CE221913
Site Address: 315 E BROADWAY RD, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 03/22/2022 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	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

**SITE REINSP
ON OR
AFTER**

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.8	Please completely address and remove all the dead palm fronds from your palm tree/s across the entire property and their surrounding area. All dead palm fronds must be discarded appropriately and in designated bins or city dumping sites. Please utilize those areas to discard all waste to diminish a deteriorated state of appearance or potential hazard. 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.	04/06/2022
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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
CORRECTION NOTICE

03/22/2022

FELIX JOE A / DIXIE L
321 E BROADWAY RD
TEMPE, AZ 85282-1405

Case #: CE221913
Site Address: 315 E BROADWAY RD, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 03/22/2022 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
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ON OR
AFTER**

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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

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COMMUNITY DEVELOPMENT DEPARTMENT
 CODE COMPLIANCE
 FINAL CORRECTION NOTICE

04/08/2022

FELIX JOE A / DIXIE L
 ATTN: CURRENT RESIDENT TENANT / JOE FELIX
 315 E BROADWAY RD
 TEMPE, AZ 85282

Case #: CE221913
 Site Address: 315 E BROADWAY RD, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 04/08/2022 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.

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**SITE REINSP
 ON OR
 AFTER**

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This is the final attempt to reach you regarding the above noted. This issue 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 violation 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).

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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

04/08/2022

FELIX JOE A / DIXIE L
 321 E BROADWAY RD
 TEMPE, AZ 85282-1405

Case #: CE221913
 Site Address: 315 E BROADWAY RD, TEMPE, AZ 85282

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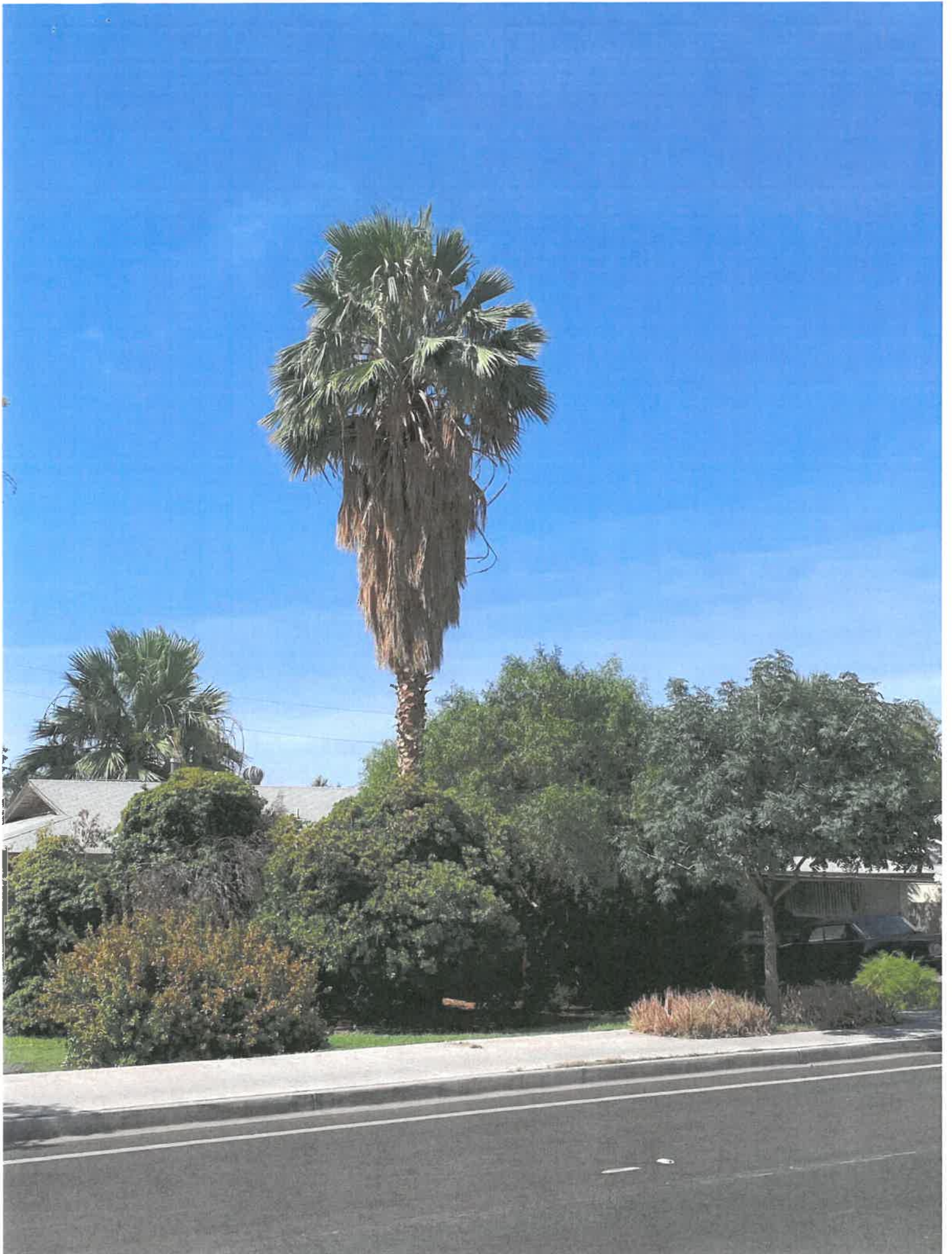
Hector Heredia Jr
Code Inspector

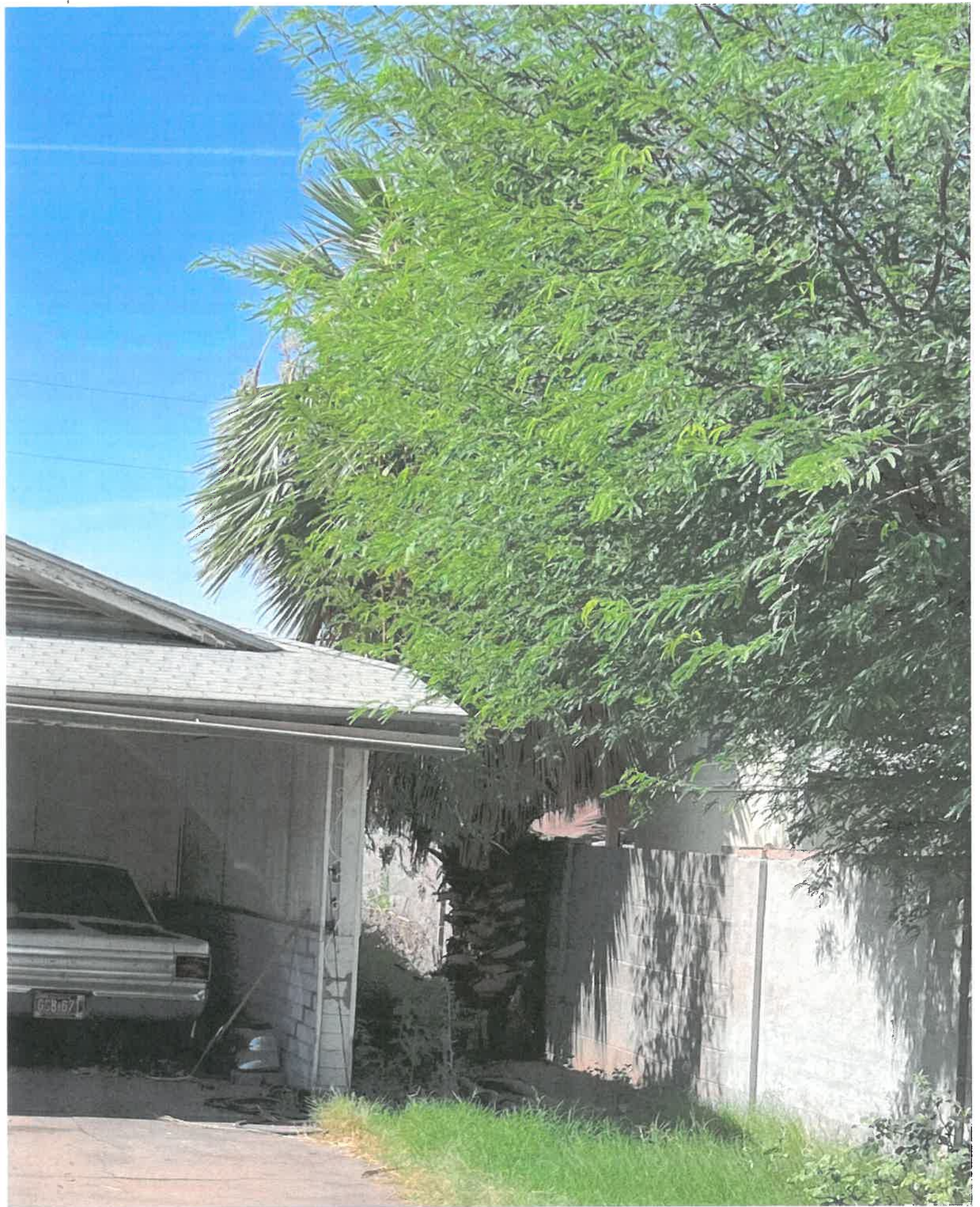
Direct: 480-350-5462
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Arizona Traffic Ticket and Complaint

City of Tempe
Maricopa County
State of Arizona



Complaint Number 1702509		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		Incident Report Number C-22913	
Interpreter Required? <input type="checkbox"/> Spanish <input type="checkbox"/> Other Language								
Defendant Name (First, Middle, Last) DIXIE L FELIX								Juvenile
Residence Address, City, State, Zip Code 321 E Broadway Rd Tempe AZ 85282								Telephone: (cell phone) <input type="checkbox"/>
Sex	Height	Weight	Eyes	Hair	Origin	Date of Birth	Restrictions	Email Address
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 05	Day 17	Year 22	Time 1030	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Speed	Approx.	Posted
At	Location 315 E Broadway Rd 85282					<input checked="" type="checkbox"/> Tempe	State of Arizona	
The Defendant Committed the Following:								
A	Section: CC 2139		ARS Violation: 21.3.B.8 Dead Palm Fronds		<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	
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	
MVD								
C	Section:		ARS Violation:		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Traffic
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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	
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: 05/3/22 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 <u>Certified Mail</u>				Complainant [Signature]		PSN 8045		
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 _____				First Citation #200.00		Date issued if not violation date 05/19/22		

COMPLAINT



1702509

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.